



Three Sets Of Stones Mark Grave Of Charles Silver

North Carolina Folklore Journal

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The Ballad of Frankie Silver

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front: An exhibit in the Silver Family Museum; a framed article about the murder published in a High Point, North Carolina, newspaper in 1988.

back: old Baptist church cemetery, Kona, North Carolina, at the 1997 Silver family reunion.

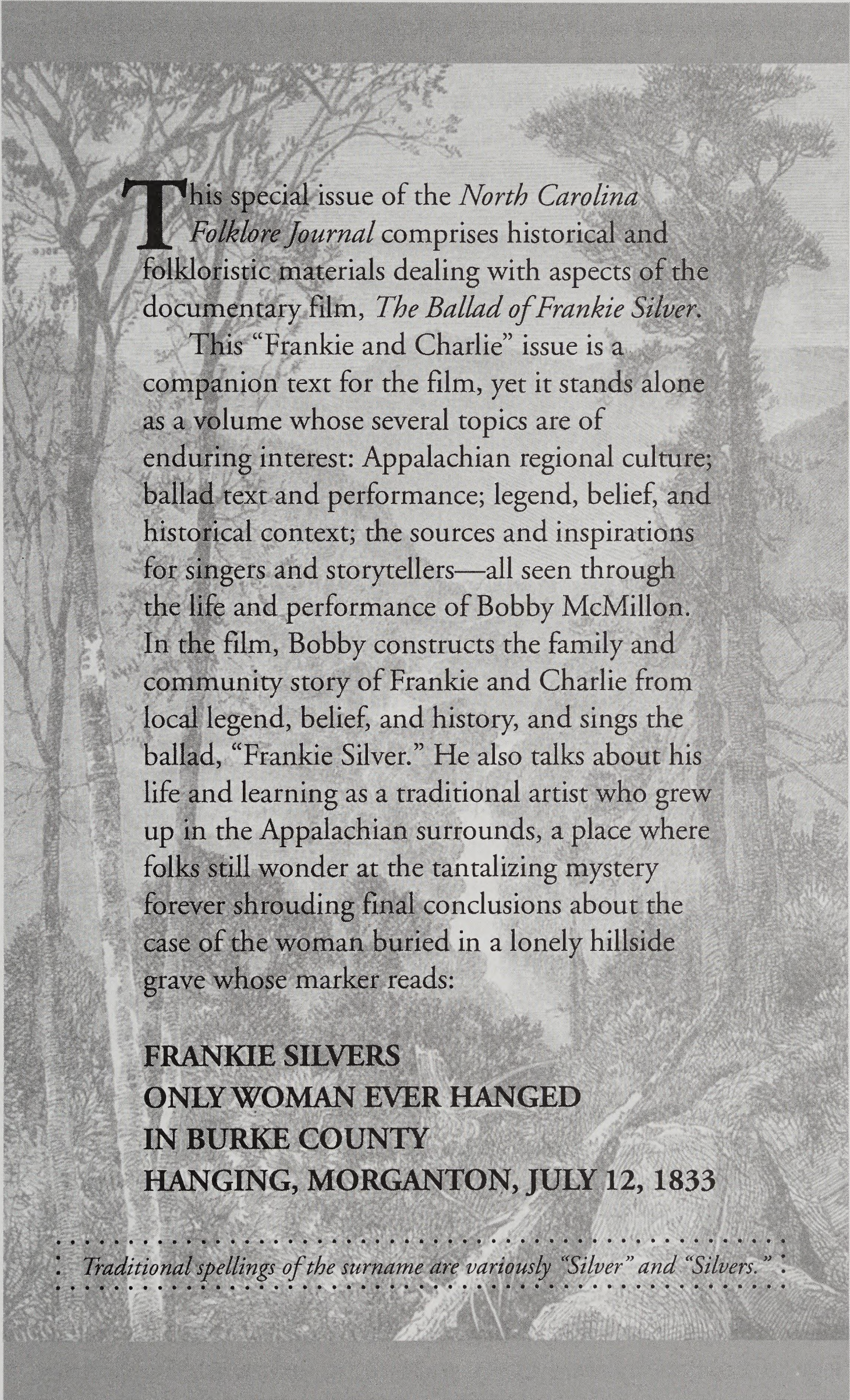
Daniel Patterson photos

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"The Canon of the Catalouche as seen from 'Bennett's'"

From Edward King, The Great South (Hartford: American Pub. Co., 1875, 484.)

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This special issue of the *North Carolina Folklore Journal* comprises historical and folkloristic materials dealing with aspects of the documentary film, *The Ballad of Frankie Silver*.

This “Frankie and Charlie” issue is a companion text for the film, yet it stands alone as a volume whose several topics are of enduring interest: Appalachian regional culture; ballad text and performance; legend, belief, and historical context; the sources and inspirations for singers and storytellers—all seen through the life and performance of Bobby McMillon. In the film, Bobby constructs the family and community story of Frankie and Charlie from local legend, belief, and history, and sings the ballad, “Frankie Silver.” He also talks about his life and learning as a traditional artist who grew up in the Appalachian surrounds, a place where folks still wonder at the tantalizing mystery forever shrouding final conclusions about the case of the woman buried in a lonely hillside grave whose marker reads:

**FRANKIE SILVERS
ONLY WOMAN EVER HANGED
IN BURKE COUNTY
HANGING, MORGANTON, JULY 12, 1833**

.....
: Traditional spellings of the surname are variously “Silver” and “Silvers.” :
.....

Thrown for a loop, I was, the first time I viewed *The Ballad of Frankie Silver*. My expectations for this, another folklife documentary from Davenport Films, were confounded. By the time granting agency credits scrolled, I was mightily disturbed by this contemporary rendition of Frankie Silver's awful, mournful life—a condemned woman's story delivered almost exclusively through the views and voices, the predilections of men. I was provoked, and I'm guessing I won't be the last viewer stung by what she initially sees and hears in *The Ballad of Frankie Silver*, and how she feels when the audio fades and the screen goes dark. Indeed, Davenport's film presentation and Bobby McMillon's singing and telling combine to deliver a powerful story of the trials and death of Frankie Silver, condemned and hanged for the murder of her husband, Charlie. My empathy for all the victims of Bobby's desperate tale was fully engaged.

2 | The primary source of the film's story and power is Bobby McMillon's straightforward telling of a traditional artist's composite tale, skillfully woven and reworked over the years of his life. As he grew from boy to man, Bobby absorbed the æsthetics and forms of traditional arts from his community elders and kin and awakened to his own artist's talents and skills. All through this development as artist and tradition-bearer, he repeatedly heard about his ax-murdered kinsman, Charles Silver and Charlie's wife, Frankie, executed by public hanging. At the point viewers encounter Bobby's song and story performances, he has constructed what he heard through his life into a fascinating, terrible, empathetic tale—hard to take in places—one that works the perfect magic of tradition folklorists strain to understand and explain.

The Ballad of Frankie Silver both documents and extends Bobby McMillon's affecting performance. In the end the film itself emulates the plainspoken, emotionally unadorned, shudderingly evocative, spare beauty of an oral traditional ballad.

The film's presentation of Bobby McMillon and his story of Frankie begins in traditional ballad fashion, "in the middle of things," after all or much of the action has occurred. Frankie and Charlie are long dead. For all time after, their kin and community remembered the terrible story of Frankie and Charlie in legend, informed, as legend must be, by community and cultural belief, and local, if not

also official, history. Bobby McMillon also has lived a long time with his story of Frankie and Charlie as the film opens on a close-up profile of him singing verses from the ballad "Frankie Silver." As is characteristic of oral traditional ballads, the film "leaps" from place to place without connecting scenes, then "lingers" where necessary to have more action revealed through the dialogues between Bobby and others who help tell the film's story. More than simply recording dialogues, though, the film creates a cinematic exchange between Bobby McMillon and Assistant Attorney General Jeffery Gray, like the stanzas of a ballad poem, an interchange between the voices of tradition and the records of official history.

As Bobby McMillon visits the places of Frankie's and Charlie's lives and deaths—the hanging tree, Frankie's grave, Charlie's family home, Charlie's place in the cemetery behind the old church that is now the Silver Family Museum—the viewer begins to see the film's story emerge from the life of this fine traditional artist. Bobby conserves and recreates the story of Frankie and Charlie, his own story, and, indeed, a story of community life in these North Carolina mountains, through ballad performance, expression of community belief, and the narration of personal history and kin-community legend.

The Ballad of Frankie Silver bears repeated viewing, just as the old ballads it resembles and the stories it records are sung and heard many times over in the lives of the performers and their audiences. This quality enhances the film's importance as a teaching text.

The film offers an unobstructed view of Bobby McMillon's artistry and allows broad access to the complex nature of traditional art and artists in community. I can envision showing the film twice in the same school term to the same students. At the beginning of my American Folklore course I could present *The Ballad of Frankie Silver* without interpretive comment as a preview of pertinent issues. For instance, the documentary treats the social and physical contexts for folk traditions in community life; the significance of folklife for personal identity; and the performance of traditional arts as meaningful communication among individuals and between generations in a family, through a region. Students can enhance their critical observational skills by analyzing *The Ballad of Frankie Silver* in

group discussion and in writing. At the end of the course students could bring to a second viewing of the film their expanded awareness of the enduring significance of traditional arts and culture. From that second viewing, students also might appreciate the æsthetic value and complexity of repetition in the process of folk culture and understand real meaning for the metaphors of interpersonal exchange embedded in the commonplace phrase, “handed down by word of mouth from generation to generation.”

Frankie Silver, dead by hanging in July 1833, is known to us now by virtue of the family and community held traditional complex of words and beliefs, sung and said, about her ordinary life and its remarkable end. The complex has many voices, takes many forms, and speaks to us through layers of time and social change about this daughter of the mountains long ago—this woman, wife, mother, and murderer confessed.

4 Bobby McMillon’s voice is an important one to hear on the subject of Frankie and Charlie Silver. Not only does he tell and sing about their terrible ends, he gives us reason to understand why the memory of these two, shared among kin and neighbors long after their deaths, recreated and reconsidered in each repetition, is worthy and wonderful.

Tom Davenport’s film gives a much wider, more diverse audience a more meaningful connection with Bobby McMillon’s community-based complex of Appalachian arts and lore. By focusing on Bobby’s development of a tradition-bearer’s personal core of narrative and ballad performance, one in which Frankie Silver’s mournful tale is well told and well remembered, *The Ballad of Frankie Silver* extends our understanding of folk arts and performance within and beyond community, an eloquent memorial to Frankie and Charlie Silver.

— Karen Baldwin

“Frankie Silver”

~ a full text of the ballad

This dreadful dark and dismal day
Has swept my glories all away.
My sun goes down, my days are past,
And I must leave this world at last.

Oh Lord! what will become of me?
I am condemned, you all now see.
To Heaven or Hell my soul must fly
All in a moment when I die.

Judge Daniel has my sentence passed,
These prison walls I leave at last.
Nothing to cheer my drooping head
Until I'm numbered with the dead.

But, oh! that jealous Judge I fear.
Shall I that awful sentence hear?
“Depart ye cursed down to hell,
And forever there to dwell.”

I know his frightful ghost I'll see
Gnawing his flesh in misery.
And then and there attended be
For murder in the first degree.

There shall I meet that mournful face
Whose blood I spilt upon this place.
With flaming eyes to me he'll say,
“Why did you take my life away?”

In that last calm sleep I see him now,
The beautiful peace on his handsome brow,
Our winsome babe on his heaving chest,
The crimson blade, and the dreamless rest.

His feeble hands fell gently down,
His chattering tongue soon lost its sound.
To see his soul and body part,
It strikes with terror to my heart.

I took his blooming days away,
Left him no time to God to pray.
And if sins fall on his head,
Must I not bear them in his stead?

The jealous thought that first gave strife
To make me take my husband's life.
For days and months I spent my time
Thinking how to commit this crime.

And on a dark and doleful night
I put his body out of sight.
With flames I tried him to consume,
But time would not admit it done.

You all see me and on me gaze,
Be careful how you spend your days.
And ne'er commit this awful crime,
But try to serve your God in time.

My mind on solemn subjects roll,
My little child, God bless its soul.
All ye that are of Adam's race
Let not my faults this child disgrace.

Farewell, good people you all now see
What my bad conduct's bro't on me.
To die of shame and deep disgrace
Before this world of human race.

Awful indeed, to think of death,
In perfect health to lose my breath.
Farewell, my friends, I bid adieu,
Vengeance on me must now pursue.

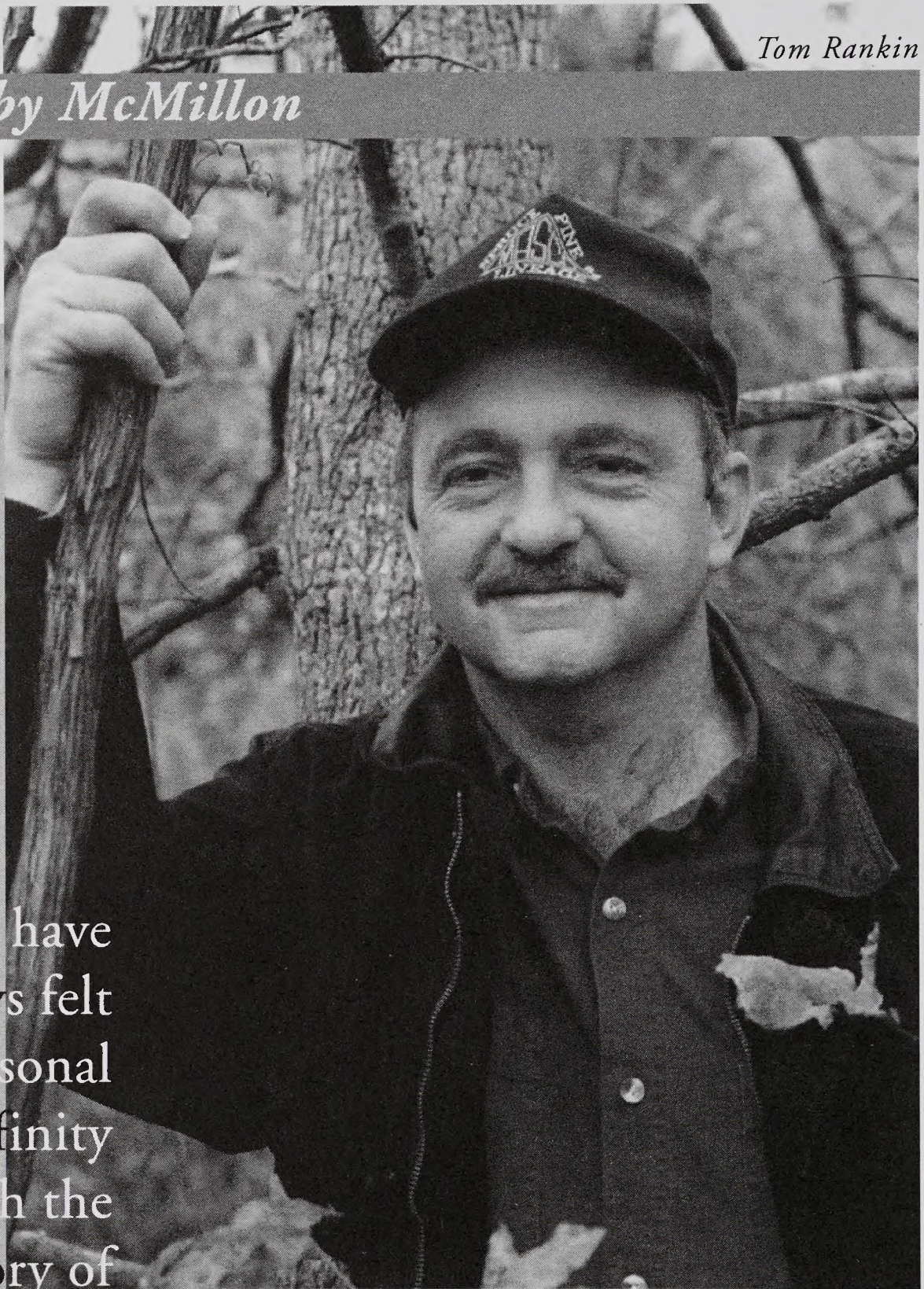
Now that I may no longer live,
Oh, pitying Lord, my crime forgive.
When I hear the call of Judgment roll,
May I appear with a blood-washed soul.

Great God! how shall I be forgiven?
Not fit for earth, not fit for Heaven.
But little time to pray to God,
For now I try that awful road.

From Bobby McMillon

Tom Rankin photo

Bobby McMillon



8
“I have
always felt
a personal
affinity
with the
sad story of

the Silvers, in great part because a special
portion of my life was spent in
sight of some of the scenes
played in that drama, and also
because Charles Silver was a
third cousin to me...”

“A Fly in Amber: Faded Leaves of Time” ~ an autobiographical excerpt

Bobby McMillon

Cruel murder was the reason one family located in a remote section of the mountains of northwestern North Carolina in the early 1800s gained notoriety and remembrance by their neighbors through its many tellings in story and song. Silver was the family's name, and the murder was that of Jacob Silver's eldest son, Charles, allegedly at the hand and axe of his young wife, Frankie, who became one of the few women ever legally hanged in the state. Because of her sex, Frankie's fame and name have, in the eyes of history and the popular imagination, far overshadowed that of her husband, in whose death the substance of legend sprang.

Three generations later, people in Charles's own neighborhood often disremembered his given name, calling him Albert and/or Johnny from the banjo piece “Frankie Baker” and the later pop tune “Frankie and Johnny.” It is argued in the region that those other ballads had their model in the Frankie Silver song, but most likely it was the coincidence of the name Frankie that led to the belief that they were synonymous with that ballad concerning the death of Charles Silver. In all of them, Frankie was the name of the woman who destroyed her man in dramas taken from actual events, and all became well known and were passed down orally in many places. As to Frankie Silver's features, there is only one known first-hand account that bears witness to them. Had it been negative—and it wasn't—it would have made little or no difference in the minds of those who have kept her memory alive in verse and tale over the years. No matter how long the sad details of her story are told, she will in them be always lovely as a blood red rose, fixed in time and unchanging, like the fly in the amber.

The tale of Frankie and Charles Silver took place in what is now Mitchell County, lying in the cool, high escarpment of the southern Appalachian Mountains between the Blue Ridge and Allegheny ranges. Yancey County lies just across Toe River from Kona where the

Silvers lived, and the history of events on the Toe is the story of both counties. The name “Kona” was given to the depot with the coming of the Carolina Clinchfield & Ohio Railroad up the river around 1900. Presumably, the naming railroad agent took his inspiration from the famous Coney Island in New York. “Koney” is a common pronunciation in the community. It was part of Burke County in 1831, then incorporated into Yancey, upon its formation in 1833, until 1861, when Mitchell was put together—but was *never* in the Deyton Bend.

“Koney”

Me and another feller used to coon hunt up the holler around where the Frankie Silvers place was. One night in the Fall of the year we 'as up in there with our guns, a-huntin'. The wind was a-sobbin' thru the dry leaves of the oaks and beeches with a cool lonesome edge, when my hair stood straight up! They was screams and groans commenced to peeling out in the dark that'd freeze your soul. We lit out a-thair a-burning the wind as we went and never would hunt around in there no more.

- Uncle Grady Thomas

Double Island, Yancey County

I have always felt a personal affinity with the sad story of the Silvers, in great part because a special portion of my life was spent in sight of some of the scenes played in that drama, and also because Charles Silver was a third cousin to me through my grandfather Dewey Woody, and also about the same degree on another line of kinship by way of my grandmother Rosa Thomas Woody. (Paw Paw and Nanny are not related by blood so far as I can ascertain).

Among mountainfolk, to tell of things that have happened locally, past or present, is also to elaborate on who was connected to whom, and how, and other such digressions. Nearly everyone in a given community—if their family has dwelt there for two or three generations—are tied together by blood or marriage or both, whether they admit it or not, and they often don't. Relationships—“aints,” uncles, cousins, in-laws, out-laws, etc.—as well as political ties and religious tenets are of great interest to them, and are important to their narrations of tales. Thus, a body has to be judicious in

recounting them, lest the baleful wrath be incurred of a listener who just may be kin or an ally to the principals therein.

My great-great-great-grandfather was Greenberry Silver, an uncle to Charles. He was a witness at Frances Stewart Silver's trial—"Frankie" was a nickname given girls—though, alas, no record is known to survive that would reveal the testimony that he and others gave. Many questions might be answered had all the files been preserved, but they've gone from us, as have the people they told of, like the faded leaves of time and the lapping waters of Toe River.

Nanny and Paw Paw's house rests on the mountainside, nestled in the woods a little more than half a mile down the holler from the former site of the Charles Silver pole cabin, on the Lunday road at Kona. It is in view of the mouth of the branch on Toe River that his wife Frankie is said to have walked to through the snow, wearing Charlie's boots for the purpose of misleading people to assume he had accidentally plunged through the ice while crossing, or as he checked his traps. She jobbed holes in the ice while there in order to make her story more convincing.

When I was coming up, we had water in the house pumped from a cold spring nearby; but like many other homes at the time, there was no bathroom. There was a wash house near the spring for bathing, but the privy—or "johnny house" or "the little house behind the big house," as it was variously called—stood off down the hill a ways, at the back, among the trees. I hated outhouses. There are always waspers, dirt dobbers, granddaddy spiders, and other creepy varmi'ts around them; and I never could shake the fear that a big black snake lay in wait under the rim of the seat for just the right moment. Close around, however, were bushes and concealing verdure a-plenty that were much more inviting when nature called—by day.

We had chamber pots—dubbed "piss pots"—in the house under the beds to use after the lights were put out. Before that time, but after dark, we boys would generally step off the edge of the porch when the urge struck—if we dared. There were only woods, a dirt road, and mountains all around. Off down the hill lay the Clinchfield Railroad, and below the tracks, the never ceasing roar of Toe River. When a train approached, coming up the river, you could hear—it seemed forever—the achinglly lonesome squeal of wheel on steel.

Then would come the pulsing roar of the engine, rising and falling as it pulled relentlessly up grade. Finally, after the train passed, would sound the high-pitched whistle of the rails as the cars faded off in the distance. Bob Silver and his crowd were the nighest neighbors, and they lived back around the turn and up the hill a right smart out of hollering distance, and we never had a phone; hardly anybody did. No one else lived closer than "Lundie" where the road ended a mile away. So I seldom ventured as far as the porch's edge when my cousins weren't around. Mainly, I was a-feared I'd see Frankie Silver's spirit come a-walking around the road in the dark with flaming eyes and an axe in her hand.

12 | Sometimes in the mountains, the darkness takes on a presence of its own, especially on moonless nights. Chatteracts, or "katydids" as they are more commonly known, begin their nightly noise around mid-summer. They are said to presage the first frost of autumn by six weeks, but I never did believe it. Only the highest altitudes in our part of the country are apt to get a frost before late September. The cicadas' incessant chattering normally endures throughout the night. But whenever they stopped suddenly, my heart would go racing and an eerie chill creep up my spine, for when that happens, it is said, then something's "a-nigh ye." To this day when I hear them a-rattling on after dark, I also think of how whippoorwills, they say, will light close to the windowsill of a dying person and holler in time to their heartbeat, waiting to catch the soul as it passes away. If they fail, they cry no more that night, but if they snatch it, they scream until the roosters crow for day.

Apart from childhood fears of the dark, plus omens and strange mores that are part and parcel of mountain folks' character, life at Kona was filled with light and color and hope. Time there was filled with memories: those seen through others' eyes and now my own, ever green and pleasant, perhaps the happiest days of all. Frankie Silver always loomed in the corners of my mind but, by day at least, was only part of the picture woven from the dim past overlaid in time by the progression of other lives and loves won or lost, with tapestries of their own.

Time has done away with most of what was there in Charlie's and Frankie's day, but there remains at least one tangible piece of evidence

from that era which has always remained solid in my perception of the tragedy. About a quarter mile or so down the gravel road that turns off of (NC) Highway 80 toward Lunday, there is a “stick-out” rock on the right-hand side of the branch that parallels the road for some distance. This rock protrudes from a steep bank and because of thick vegetation cannot be seen easily in summer by passersby. Here, it is told, is the spot where Frankie hid Charlie’s “lights” as she made her way through the snow to the river after dismembering him and burning all of him she could. I would never go to that rock alone as a child because of some irrational idea that parts of his remains were still there. At the time, I didn’t realize just how many years had bloomed and withered since that event took place.

To get to the Charlie Silver home site, the branch must be followed up the holler where the paved road crosses it, then on up under the mountain to a place where it bears left. A smaller stream once joined it there. Near the confluence of these two waters, in the angle, were apple trees whose first sires grew close to the cabin. That cabin is long gone, as is the later home, near the spot, of Granny Eller Ellis, whom my grandmother and others of her generation affectionately honored by giving the mountain close at hand her name. There used to be a cherry tree at hand that allegedly grew up over one of the caches of Charlie’s remnants. It was believed that anyone climbing that tree would become ensnared among the branches and couldn’t get down without help. My mother thinks that once happened to me as a child, but I don’t remember it.

Its emptiness makes that cove seem mournful; indeed it is a dreary place in the gloom of winter when the low clouds hanging over the shaggy height of Granny Ellis Mountain drop their foggy mists down its sides. The stillness at such times can be oppressive and quite unnerving. I recall, however, that beauty was there also, especially when June sunbeams played upon the green meadows and the forested slopes. Paw Paw and I used to pluck fruit from service trees growing high on the mountainside. From that vantage, we could gaze across the holler to the Silver Graveyard on the opposite ridge, where lay buried the literal remains of Charles Silver, overlooking his home site on one side and his father’s on the other. The original Silver homestead stands a few hundred yards down the ridge from the

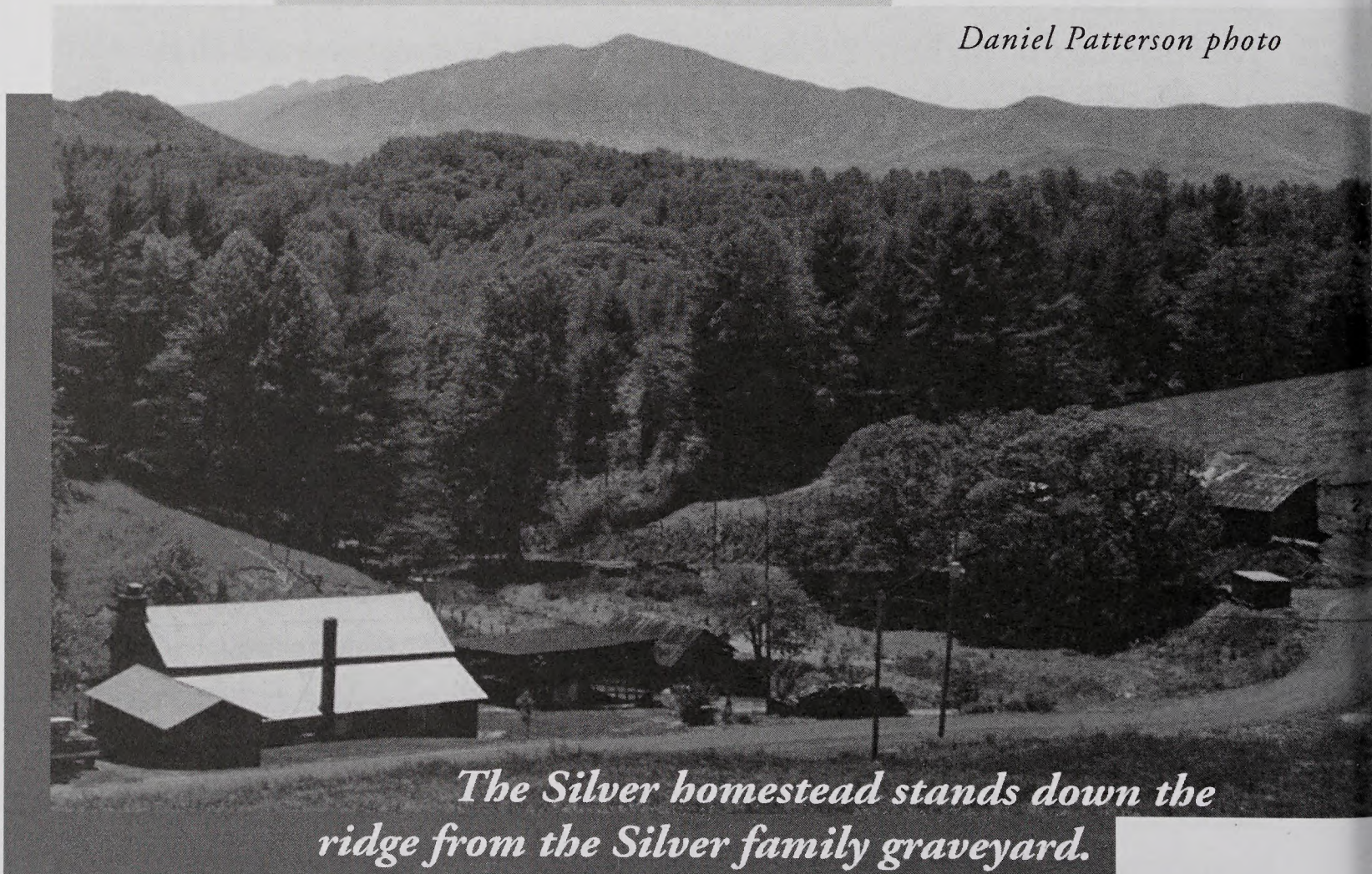
graveyard, in good repair today. It is a hewed log house, now weather boarded, built circa 1808 by George Silver, the younger, and his children. He was the patriarch of the Silver clan of western North Carolina.

Seven generations have passed since the fateful years of 1831-33. A few members of the third generation whose ages are coeval with those of the fourth are still alive, but the fourth too will soon be numbered with those already parted from this world. Recollection and use of their handed down songs, tales, crafts, and ways of life will be left in the minds and hands of those who carry on. I often wonder how long they will endure.

Memories are everywhere around “Koney,” good and bad, and intertwined among them runs always the thread of a drama played out long ago, a mystery in part, causing questions to arise whose answers lie beneath the grassy mounds of the characters that inspired them. In youth, I often roamed the woods around the “Frankie place” and always seemed to be there watching and listening. My inner ear still catches voices—vibrant and rich in dialect—recalling that

14 “dreadful, dark, and dismal day” of December 22, 1831.

Daniel Patterson photo



The Silver homestead stands down the ridge from the Silver family graveyard.

On the Making of *The Ballad of Frankie Silver* ~ remarks by the filmmaker *Tom Davenport*

Dan Patterson introduced me to Bobby McMillon in the early 1980s. Dan was interested in Bobby's rendition of the Tom Dula tale, and we talked about this. Over the years, I kept up with Bobby indirectly through Dan. When Davenport Films was finishing the Mutzmag¹ film, I sent Bobby a copy because I wanted to know what he thought of the movie. He liked it a lot and said that it was the first adaptation of an Appalachian folk tale that he thought captured some of the terror of the old stories. I think it was during these contacts that he sent me a carefully handwritten account of the Frankie Silver tale, complete with a map of the community where the murder took place.

When Davenport Films had an opportunity to document Bobby McMillon, we selected "The Ballad of Frankie Silver"—one of Bobby's favorite bodies of material—from the hundreds of stories and songs Bobby had learned from his family and community. Filming began as a pilot project when Davenport Films was working on another short film in western North Carolina.

My assistant at this time was Jonathan Hamilton, a graduate student in the Department of Radio, Television, and Motion Pictures at UNC-Chapel Hill. We were working on a video project that playwright and storyteller Gary Carden had submitted to the Folklife Program of the North Carolina Arts Council. Jonathan and I wanted to experiment with a project to get ourselves on line with digital, computer-based editing. The Carden project appealed to us because of its simplicity and the potential it had for allowing us to experiment with low-cost video production methods.

In October of 1992, Jonathan and I went to Sylva to film Gary's stories. We spent five or six days there, with Jonathan doing most of the taping and me doing sound. Jonathan had read the material that Bobby sent me, and we had discussed the possibility of making a film from it. Both of us were "high" on making short, inexpensive

*“Bobby’s
Frankie Silver
story was
recorded in one
continuous
take, delivered
not to a person
but to a camera
lens. ... [his]
performance
was confident
and relaxed,
and this tape
became our
most important
source for the
video story line.”*

16

documentaries quickly using our new Hi-8 video camera and computer-editing technology.

I knew that Bobby lived nearby in Lenoir, so when we finished the shooting in Sylva, I called Bobby on an impulse and asked him if he would meet us and tell us the story of Frankie Silver so that we could tape it. He agreed to meet us. At that time, he was working irregularly as a mason’s assistant, mixing mortar and carrying bricks.

Jonathan and I spent the night in a motel in Hickory and met Bobby in the morning. We set up the camera in our motel room and lit Bobby with two lights. The only direction I gave Bobby was to start with the ballad and to deliver the story directly to the camera. We turned the camera on and turned it off about forty-five minutes later, having recorded not only the entire ballad and telling of the tale, but also some of Bobby’s growing-up stories and songs. I had asked him a few questions about his

background and how he became interested in these old stories and songs. These are the only questions I asked.

Bobby’s Frankie Silver story was recorded in one continuous take, delivered not to a person but to a camera lens. This is not easy to do. Bobby’s performance was confident and relaxed, and this tape became our most important source for the video story line. None of the other renditions of the story that we taped three years later on the steps of the Silver cabin was as good as this one.

One detail I remember about the interview was that Bobby wanted to know if he should keep his cap on during the taping. His beat-up cap is part of Bobby’s performance persona. He is quite deliberate about projecting a down-home look and uses old-time

expressions and pronunciations by choice. This became very clear when I met his grandparents who talked in much less of an old-time manner than Bobby. I told Bobby that it was better not to wear the hat because it made our lighting more difficult.

That afternoon, Jonathan and I drove back to Chapel Hill. The next day, I made an appointment to see staff at The UNC Center for Public Television to show samples of the Gary Carden and Bobby McMillon material to see if they would be interested in helping with the final “on-line” editing of these projects in exchange for broadcast rights in North Carolina. They liked the Gary Carden material but did not like Bobby’s story—partly because there was just this one interview and partly because Bobby’s delivery was less conventionally professional than Gary’s.

UNC-TV helped us finish the video with Gary—“Blow the Tannery Whistle”—and broadcast that in North Carolina. Gary was able to sell copies at his performances and during the Elderhostel class he teaches, and the video became an important source of his modest income. This pleased the North Carolina Arts Council and became one of the factors that allowed us to get a grant of \$5,000—the same amount we had for the Gary Carden video—to complete the Bobby McMillon tape when we applied several years later.

My first trip down with my son Matthew was aborted because of flooding. We drove to western Carolina but had to return two days later because several bridges were out and Bobby could not get over the mountain roads to meet us. On my second try, Jon Nichols—then a graduate student in folklore in Chapel Hill—went with me to do the sound work. I made the following notes in my diary:

Monday. Bad weather. Snow in Asheville area. We decide to meet Bobby in Lenoir and film him with his grandparents. We arrive in the afternoon. Bobby has a room in the house, which is a comfortable brick house in a middle-class suburb. Bobby introduces us to his singing companion, Marina, and they perform a version of the Frankie Silver ballad. Bobby plays guitar. We also film him interacting with his grandparents, Paw-Paw and Maw-Maw. They are old and don’t speak much. Maw-Maw shows us her quilts and makes biscuits. Mostly they just sit, and Bobby talks.

Tuesday. Good weather. We drove to Morganton—the site of the trial and hanging. Because Bobby has not been to any of these sites, the film trip becomes a kind of search. We film Bobby at the Chamber of Commerce, where he finds out about Frankie's grave site and the location of the hill where she was hanged. We film his description of the trial and her escape in front of the old courthouse. The old courthouse is now the Morganton historical society, and we get copies of the court records and a petition that a dozen prominent women sent to the governor [in 1833] asking for a pardon. The petition suggested that Frankie was acting in self defense and that Charlie was known to be abusive. Frankie was hanged on a hill near the courthouse. The houses there are [now] upper middle class, and we meet an elderly doctor who is walking his dog. He tells Bobby that when he was small, the black maids would push baby carriages along that street and tell their charges that if they misbehaved, a booger or bad spirit who lived on that hill would get them. Bobby immediately incorporates that story into his. A young, attractive, and well-dressed professional woman lives in the house on the site of the hanging. She is curious about what we are filming, comes out, and takes Bobby to an old oak tree in her back yard that she thinks was the hanging tree. Next, we drive to the site of Frankie's grave, which is about nine miles from town in a godforsaken place at the end of a dirt road. There is an eroded ditch path that we follow through dense second growth pines and vines to the grave, which has been marked with granite and inscribed: "FRANKIE SILVERS/ ONLY WOMAN EVER HANGED/ IN BURKE COUNTY/ HANGING, MORGANTON, JULY 12, 1833."

Wednesday. A beautiful sunny day. Bobby stays with Sheila Adams in Mars Hill, and John and I spend the night at the NuWray Inn. We are the only guests. After a big breakfast, we set off for Kona. We film at the following places:
~ Bobby's grandparents' house on a steep hillside above the Toe River.

- ~ On the railroad tracks next to the river where Frankie, wearing Charlie's boots, was supposed to have poked holes into the ice to make people think that he had drowned.
- ~ At the overhanging rock where Frankie hid his remains.
- ~ Along the Toe River where Bobby tells the story of his grandfather who discovered a giant snake that had been cut in two by a train.
- ~ At the church and cemetery in the nearby community of Kona, where the Silver family still lives. The church is no longer used and is a kind of museum now. There was a beautiful handwritten Silver family tree inside, and we filmed Bobby in the church. We also had an interesting encounter with Bobby's cousin, Wayne Silver, who is the local historian. The encounter was an interesting contrast in styles. Wayne believes that Frankie acted in self defense. Bobby tells him the Silver family version, which implicates Frankie's father. They talk about their mutual relatives. Bobby got very tired, and we stopped about 3 p.m.

Thursday. Cloudy with light rain. Bobby tells the entire story sitting on the front porch steps of the original Silver home where Charlie was raised. The story was done in two long takes. Bobby introduces the story with two verses from the ballad. In the first and most complete take, Bobby is influenced by what he has heard from Wayne and at the historical society in Morganton, and he omits the parts that implicate Frankie's father. In the second telling, Bobby puts that part back in at my request. This version is very similar to the one that we filmed in the motel room in Hickory two years earlier. We meet Homer Silver. He is the great-great-great-grandson of Jacob Silver, Charlie's father. He owns the cabin, and takes us for a tour. Bobby and Homer visit. We also film in the cemetery at the supposed site of Charlie's grave and next to the cemetery overlooking the hollow where Frankie and Charlie lived.

I got back to Delaplane [Virginia] late on Thursday. I left Bobby and Jon in Burnsville. Jon was going to visit a friend in Asheville, and Bobby was going to check on his recording. Bobby drove off in the

rain in his Buick LeSabre without his windshield wipers working. Jon Nichols caught on very quickly and was very interested in the project. I think we will have a very interesting and unusual movie. Bobby talked very well.

As is usually the case in documentaries, we had some lucky accidents. The meeting with Wayne Silver at the church was unplanned. Wayne just happened to be there. Also the meeting with Dr. McGimsey, who talks about the black women pushing baby carriages past the hanging site, was accidental.

Bobby has diabetes and was weaker than he had been during that first interview in the motel room. He tired easily, and his mouth became dry. He was constantly sipping soft drinks during the trip. I remember being amazed at the depth of his knowledge of kinship relations. I suppose he has this in common with most people who are interested in genealogy, but it amazed me in a person as young as Bobby. He could trace the lineage of his family and pepper it with anecdotes about people long dead. He told us over dinner that he wished he could have gone to college and gotten a degree in folklore so he could have become a teacher instead of having to work in a furniture factory.

The discovery of other people who shared an interest in Frankie Silver added more complexity to the film. In addition to Wayne Silver and Dr. McGimsey, the women who staffed the Visitor's Center in Morganton offered a glimpse of a larger community that continued to talk about Frankie. Different people gave different accounts about what had prompted that 1831 murder, and the problem of how to treat the various perspectives became an issue for the filmmakers.

Matthew Jones replaced Jonathan Hamilton as my assistant in 1995. Like Jonathan, Matthew is a good writer and has confidence with computers. He is a Duke graduate in anthropology and has experience editing films. He took immediately to the idea of making a film out of the interview material and was responsible for most of the editing. In early 1996, Matthew and I began work in earnest on *The Ballad of Frankie Silver*.

Even during the original taping it had become apparent that Bobby's account of the story was from the perspective of the murdered man's family. Bobby was a distant relative of Charlie Silver,

and his version placed much of the blame on Frankie's father. There is little sympathy for Frankie and no indication that she might have been a battered wife. It is interesting that Bobby's story changed slightly (compared to his first account in the motel) and expressed more sympathy toward Frankie during our trip to Kona. I am sure that Bobby was influenced by the questions that Wayne Silver brought up on the church steps and that Jon Nichols and I raised during our days together taping.

As Matthew Jones and I edited the video, it became even clearer that there was something missing in the story and that there might have been some terrible injustice committed when Frankie was hanged. It was hard for me to accept the motive Bobby presents: Frankie's father wanted to move west, and they killed Charlie because he disagreed with their plans. Wayne Silver challenged Bobby on this issue, but he was the only one to question Bobby's account and to raise the issue of domestic abuse.

We went ahead and cut a version of the story with Bobby as our sole informant, and I sent this rough cut to UNC-TV with a letter suggesting that the film raises some unanswered questions about the possibilities of abuse. The staff responded that these issues were not apparent and that the video portrayed violent elements that made it unacceptable at this stage for broadcast. Because there is no violence shown in the video, that reaction is actually a confirmation of the power of Bobby's storytelling. This rejection was a blow to the project because we had counted on UNC-TV support to finish the film and believed that its broadcast would benefit Bobby and viewers interested in the traditional culture of western North Carolina.

However, we began to rethink the film. While searching the state archives for newspaper accounts of the murder, Dan Patterson had met Jeff Gray, an Assistant Attorney General, who had been asked by the staff of North Carolina Governor James B. Hunt, Jr. to investigate the Frankie Silver case because of a petition for pardon submitted by school children in Burke County. Jeff had become very interested in the case and was preparing an article on his research for publication.

Jeff Gray is from Sylva, Gary Carden's home town in western North Carolina, where Jeff's family publishes the weekly paper. In the video, his style (dress shirt, tie, background of law books) functions to

"The ballad and legends that appeared to be a convenient vehicle for a short film featuring Bobby McMillon and his art gradually became also a means of discovering the continuing legacy of what the first newspaper account called a 'horrible outrage.'"

either support Bobby's account, add details, or suggest contradictions and raise questions that illuminate some of the tragic and—from the modern perspective—unfair aspects of Frankie's trial and punishment. We photographed Jeff in a library or chamber just off the court room in the Department of Justice Building in Raleigh. Dan and I interviewed Jeff for about three hours with help from Michael Oniffrey of UNC-TV on camera and Matt Jones on sound.

Matt and I then integrated Jeff's material into the film. Matt gave an innovative end to the video with Bobby's casual comment, "How much more time do we have?—I'm not sure how far to go." Otherwise the cutting is very straight forward.

It is interesting to point out that the story in the video is mostly told by men—Bobby McMillon, Wayne Silver, and Jeff Gray. There are few women in the video. One is the owner of the house on the hill where Frankie was hanged. She and Bobby look at the oak tree, which supposedly was the gallows in 1833, and she functions to link the tragic and terrible event of the hanging to the commonplace look of the

modern world. The scene shows that none of us can be sure what our everyday ground has witnessed.

The other woman has a more significant role. Bobby's singing partner, Marina Trivette, tells us what Frankie might have been feeling on the day she was hanged by telling us how she herself would feel knowing that she was about to die, leaving a little child behind. She is the one true voice of compassion in the video, and her voice is powerful because sympathy for Frankie is so late in coming—absent

as it mostly is from Bobby's and Jeff's accounts. Matthew Jones and I thought that there was a kind of irony in the way that Frankie's guilt or innocence in the video is debated and decided by men, just as her fate was discussed and decided by men more than 165 years ago.

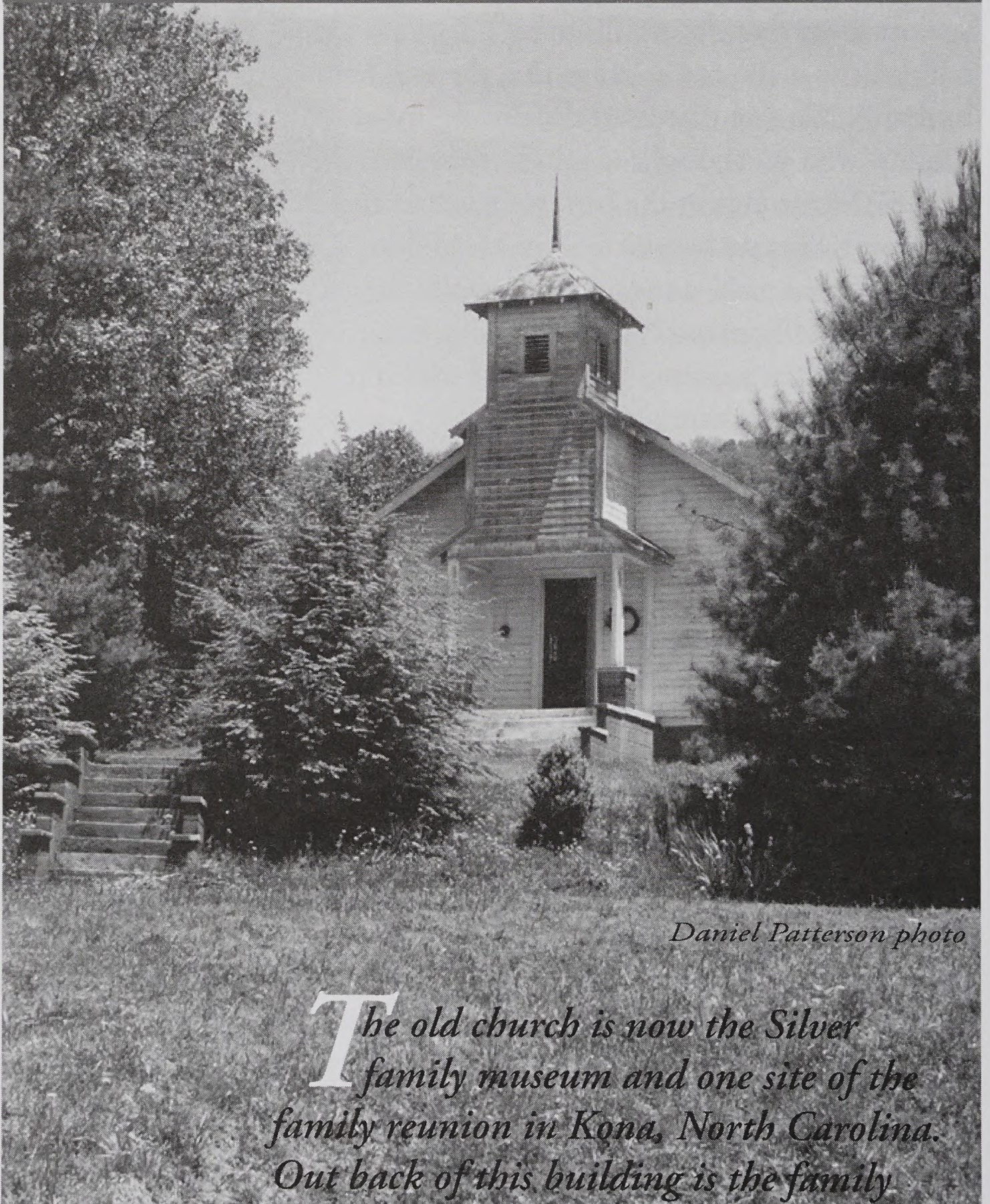
After taping Jeff Gray, we did discuss the pros and cons of opening the video to the voices of other women. Jeff had defended the State's views on self defense (that the defendant must prove that her life was in imminent danger when the homicide was committed) against ideas that, in certain cases, a woman would be able to claim self defense if she could prove that she was battered and afraid of her husband. We also discussed the possibility of interviewing Sheila Adams, who we thought would have known the ballad and stories of Frankie Silver. But in the end, we felt that such a debate would dilute the storytelling artistry of Bobby McMillon. The ballad and legends that appeared to be a convenient vehicle for a short film featuring Bobby McMillon and his art gradually became also a means of discovering the continuing legacy of what the first newspaper account called a "horrible outrage."

¹*Mutzmag* is one of eleven live-action versions of classic folk and fairy tales in a "From the Brothers Grimm" series, produced by Davenport Films. See the Davenport Films web site at the following URL — <http://www.oz.net/~davfilms/index.html>

North Carolina Folklore Journal also published another Davenport Films transcription with commentary: Tullos, Allen, Daniel W. Patterson, and Tom Davenport. "A Singing Stream: A Black Family Chronicle," *NCFJ* 36.1 (1989).

The Ballad of Frankie Silver
with an epilogue: The Making of a Ballad Singer

~ transcription of the sound track



Daniel Patterson photo

The old church is now the Silver family museum and one site of the family reunion in Kona, North Carolina. Out back of this building is the family cemetery, where Charles Silver is buried.

*Bobby McMillon, singing verses one and ten of the ballad
“Frankie Silver”:*

This dreadful dark and dismal day
Has swept my glories all away.
My sun goes down, my days are past,
And I must leave this world at last.

The jealous thought that first gave strife
To make me take my husband’s life.
For days and months I spent my time
Thinking how to commit this crime.

*A Rutherfordton newspaper carried the first
account of the murder of Charlie Silver. The
filmmaker uses its text for a visual here but has
reset it to make both text and date legible.*

*The text of the ballad
“Frankie Silver” has
circulated orally and
in written and printed
copies, and people have
put it to at least four
different traditional
tunes. Bobby’s is the
most common one and
is also used for the old
shape-note hymn
“Devotion.”*

Bobby: One of the strangest and most frightening stories that I remember happened over in western North Carolina, in the Toe River country. That’s where my mother was raised and her people. My folks came into that country back in the early 1800s, and in those days, it was like a wild wilderness, you might say. The woods was full of pant’ers and bears; and, of course, there was mink and beaver. And one of the children of the Silvers family was a trapper. And his name was Charles Silvers. He was my third cousin. My grandfather—or my great-great-grandfather—was his first cousin. And so it’s been, of course, generations ago. And Charlie was raised by Uncle Jake Silvers and his second wife, whose name was Nancy Reed. And Nancy raised about eight or ten younguns by preacher Jake, but she raised Charlie too. He was the oldest; and as Charles grew up, he took to the woods, and he was a hunter and a trapper. And he would go out in the woods and get beaver and mink, and a big party of men

*The visuals intercut with
Bobby McMillon’s account of
the wilderness and Charlie’s
hunting come from 19th-
century books and magazines.*

sometimes would go and stay gone for months up back toward the—or weeks rather—back on the boundary, on the frontier then, I guess, of North Carolina and Tennessee.

And Charles, when he was about eighteen, he married a girl that's family had come into the Toe River section named Stewart; and her name was Frances Stewart. But the mountain people would call a girl named Frances, "Frankie." And Frankie they said was a girl that had charms.

They said that she was a very pretty girl and a good dancer. And her folks, though, were real poor people. They didn't have much. They lived in a little shack of a cabin about a mile down the river below the Silvers. But Charlie married Frankie, and they built up a little pole cabin across the ridge behind the mountain where Charles's brothers and sisters and father and stepmother lived. And it was just a little one-room cabin that set over there in the holler.

There was a tree that grew near where the old house was. They claimed if you got up in it that you couldn't get out, and my mother said she thought when I was just a child and we went up there that I got up in the tree, and they liked to never got me out. I don't know if that was because of the curse or because I didn't want to be got out. But anyway, Nanny's brother—my grandmother Woody, her brother Grady Thomas—said that one time him and a friend was a-hunting—I think they's 'coon hunting one night—and they was laid out up in the holler there near where the cabin stood; and he said that up in the night he got to hearing screams and hollers that just froze his blood. He said that him and his buddy both took out of there like scalded dogs to get away. But he said that was the queerest thing that he ever heard—was them screams and hollers that they heard. They didn't know what it was.

The inscription on Frankie Silver's modern tombstone contains several inaccuracies. While early accounts give the name as both "Silvers" and "Silver," family members now generally prefer "Silver," tracing it directly to the original German: "Silber." Frankie, it is also now generally agreed, was not the first woman hanged in Burke County, as the stone says, or the first white woman hanged in North Carolina, as others have believed.

Bobby, singing verse eleven:

And on a dark and doleful night
I put his body out of sight.
With flames I tried to him consume,
But time would not admit it done.

Bobby: It was 'long about Christmas time, they said, that Charlie was preparing to go on a hunting trip with some friends back up on the Tennessee line and was going to be gone for about a week. And it was a cold time of year, and the snow was just a-pouring down; they said that it just poured the snow all day long; and Charlie cut down an old sourwood tree. Said he chopped it up and said that after he'd split it and he piled it up for wood that would do Frankie and the baby while he was gone a-trapping.

And when he come in that evening, they said that he sat down at the table and they ate. Well, according to my granny's uncle,* her father was there too and ate supper with them; and when they got done, Charles said that "I'm beat." Said, "I think I'll lay down." And Frankie looked at him and said, "Well, I fixed a pallet for you by the fireplace." Said, "I thought you might want to take a nap till you got ready to go to bed."

** Lattimore Hughes, "Uncle Latt," who had a major influence upon Bobby's way of telling the legend.*

Well, I've wondered for years and years why in the world anybody would want to take a nap till they got ready to go to bed. And I can't figure it out, but that's the words that they claim that he said. So she had a sheepskin rug and had it laying there in front of the fireplace, and Charlie, he just laid down on the rug with the little baby, Nancy. It was just old enough to start walking. He went to sleep. Well, after he seemed to be sound asleep, Frankie's daddy looked at her and said, "Now's your time, Frankie, now's your time."

North Carolina Assistant Attorney General Jeffrey Gray consulted court and governors' documents preserved in the North Carolina Division of Archives and History.

Jeffrey Gray: I originally got involved in this case at the request of the Governor's office. Like a lot of North Carolinians, I had read about the Frankie Silvers case, had seen it in books, had heard the folklore

or the traditional oral renditions of this story, but had never really thought about it, had never researched it any further. The Governor had received a petition from some school children* in Burke County, requesting that Frankie Silvers be pardoned; and their request to me was “find out the facts.”

** Ms. Jo Ball's students,
Heritage Middle School,
Valdese, North Carolina.*

The exchange of views and legends by Wayne Silver, a relative of Charlie Silver, and Bobby McMillon takes place in the yard of the old Baptist church, Kona, North Carolina, where Wayne has formed a Silver Family Museum.

Wayne: Anybody who came to visit would always give us their version.

Bobby: Yeah, they would always tell. . . .

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Wayne: They'd tell their version. Somebody else would tell their version. But I said, “You've got to remember; I want to hear the truth!”

Bobby: Yeah.

Wayne: “Give me the truth!”

Bobby: Umh-hunh.

Wayne: Well, boy, let me tell you. The truth has really been hard to come by.

Bobby: Umh-hunh. Well, I'll tell you this that I heard. Now my grandpaw Woody, he had heard the story, of course, growing up; but he told me that your granddad told him that her people wanted to move west, and that, that he believed . . .

Wayne: I've heard that story.

Bobby: . . . that he believed that they wanted him to sell his land so they could get the goods to go west and that he wouldn't.

Wayne: I used to think, “Oh my God, this woman was a mean, old, ugly—old, forty years old, at least!” Old is ugly. Forty.

Bobby: Yeah, I thought that too. Umh-hunh.

Wayne: Then when I finally started realizing and putting the time and the perspective, you know, I thought, “My God! Here we're

dealing with something that nobody has ever—nobody ever—would have told us that; I mean, this is a teenager. She was only nineteen. He was going on twenty; he was almost twenty.”

.....
Jeffrey Gray: Charles Silvers was reported to be a handsome man, very popular in the community, a good dancer, a good singer, and well thought of and well thought of by the ladies—and that he may have had one or more young ladies that he was interested in. And that Frankie may have been jealous.
.....

The visual is a woodcut of a barn dance, taken from a 19th-century almanac.

Bobby: And she stood over him, and she'd rear back with her ax and start to come down on him. And he's laying there—and he'd smile at her in his sleep. And said that she come back again, and he'd smile at her again. 'Bout the third time—he'd grin at her every time—the third time she finally said, “Well, I can't do it. I can't kill him a-smiling at me like that.” And Charlie's—or Frankie's—father said, “Well, now, if you don't kill him,” said, “I'll kill you.” Said, “If you don't kill him, I'll kill you.” So finally she come back, and she come down on him and give him one lick to the side of the head. And they claim that she dropped the ax then. He jumped up and screamed, “God bless the child!” Well, she run over there and jumped in the bed and got under the covers with the—and laid hid there until she heard him hit the floor. And said that her daddy took the ax when he fell, said he took the ax and come back, and he used such force to cut his head off that it split his head at the neck, and said his head bounced a-gin the rafters.

.....
Wayne Silver: I don't get this. Everybody talks about her chopping off his head, or chopping the neck, but the gash that they found in the skull was on the top—three inches wide and one inch deep. So this almost says what she told the sheriff—that it's really true. She picked up the ax and she hit him on the head, maybe intending to kill him, maybe not intending to kill him, maybe in self-defense. I—and we're all speculating.

Wayne Silver's description of the wound comes from the indictment read at Frankie Silver's trial.

Bobby: And they said that the baby, Nancy, got to crawling. And said that it crawled through, through its dad's own blood; and where it was learning to walk, it tried to stand up at the table. It put its little hand prints on the table, and said that the mark was left there forever!

Well anyway, they burned him. Burned him all night long in that fireplace with that wood that he had meant to keep Frankie and the baby warm while he was gone. And of course, naturally, all the parts of the body won't burn. It would take a awfully high heat to just about cremate anybody anyhow; so they took the parts that wouldn't burn—his guts, and his lungs, I guess, and the parts that—and liver, maybe—and put them in a sack. And she took his head, or her father did, one, and they said they went and hid it in a hollow stump off out at the edge of the yard.

30 It was still just a-snowing, a-snowing. And so, her daddy, now—and the reports over the years always said, now, that Frankie done this, 'cause she was the one that got into trouble for it, but now this is the way that they told it at home. Said that her daddy put on his boots and took his lights that was in the sack and went down the holler toward the river—it's about, oh, not quite a half a mile, but right at it—and there's a little trail that went by a branch, and about half way down the trail toward the river, there was a shelving rock that stuck out, little stick-out point, and some rocks there around under it, and they claim that he hid that sack of lights underneath one of those rocks there.

.....
Jeffrey Gray: [As though quoting another person.] "Aw, Frankie was too small. She was a frail woman, a very petite woman. She would not have been able to do that." Well, maybe or maybe not. Pioneer women of that time would have known how to dismember or to dress, would be the proper term, most any farm animal, domestic animal, as well as smaller—and smaller domestic animals such as a chicken—or whatever. She very easily could have dismembered him piece by piece with an ax in the cabin.

.....
Bobby: The next morning, little after daylight, Charlie's stepmother and his sisters was a-washing over across the mountain at their house, outside—it was a real cold day—and had a big old wash pot and

everything; and they said that Aunt Nancy (that was Charlie's stepmammy) she saw Frankie coming across the hill with the baby. Said she come down there. Frankie said to her mother-in-law, said, "Well, you'uns is hard at it early, hain't ye?" And she said, "Yeah, we're just getting ready for a rest. It's a holiday. We's trying to clean up." And said, "What have you done this morning?" She said, oh, she'd been hard at it a-washing and a-cleaning. She didn't tell what she'd been a-cleaning. And so they said, "Well, where's Charlie at?" And she said, "Well, he went to get some feed for the cow across the river [from a] man that lived not too far away. Said he ought to be back the next day. Said he thought he might stay all night. And she was going to go and see her mother and dad and stay with them that night and wanted to know if some of the boys would care to feed the cow that evening. And she said, well she'd send some of them down there. Well, they remarked that when they went to feed that evening, the only tracks they saw leading to the barn was Frankie's. But anyway, the next day, some time up in the evening, after noon, Frankie come down to old man Jake's house and said, "Well, Charlie ain't got back yet," and said, "I just don't care if he don't come back." She said, "He didn't show up last night apparently, and he ain't been there all day." Said, "I'm just going back to Dad's and stay there."

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.....
Homer Silver: (Charlie Silvers's great-grandnephew) My daddy give me this place, and some of the younguns come in and they got him dissatisfied. You know he was getting way up in years.

Bobby: Yeah.

Homer: I says, "I don't want you that-a-way. I'll just go make you a deed for it back." And in a little while, he give the place to my sister. Well, she's up in Minnesota, and she come home, said, "I'm going to sell you the old home place." But said, "I'm going to fix it till you can't sell it, and it has to stay in the family."

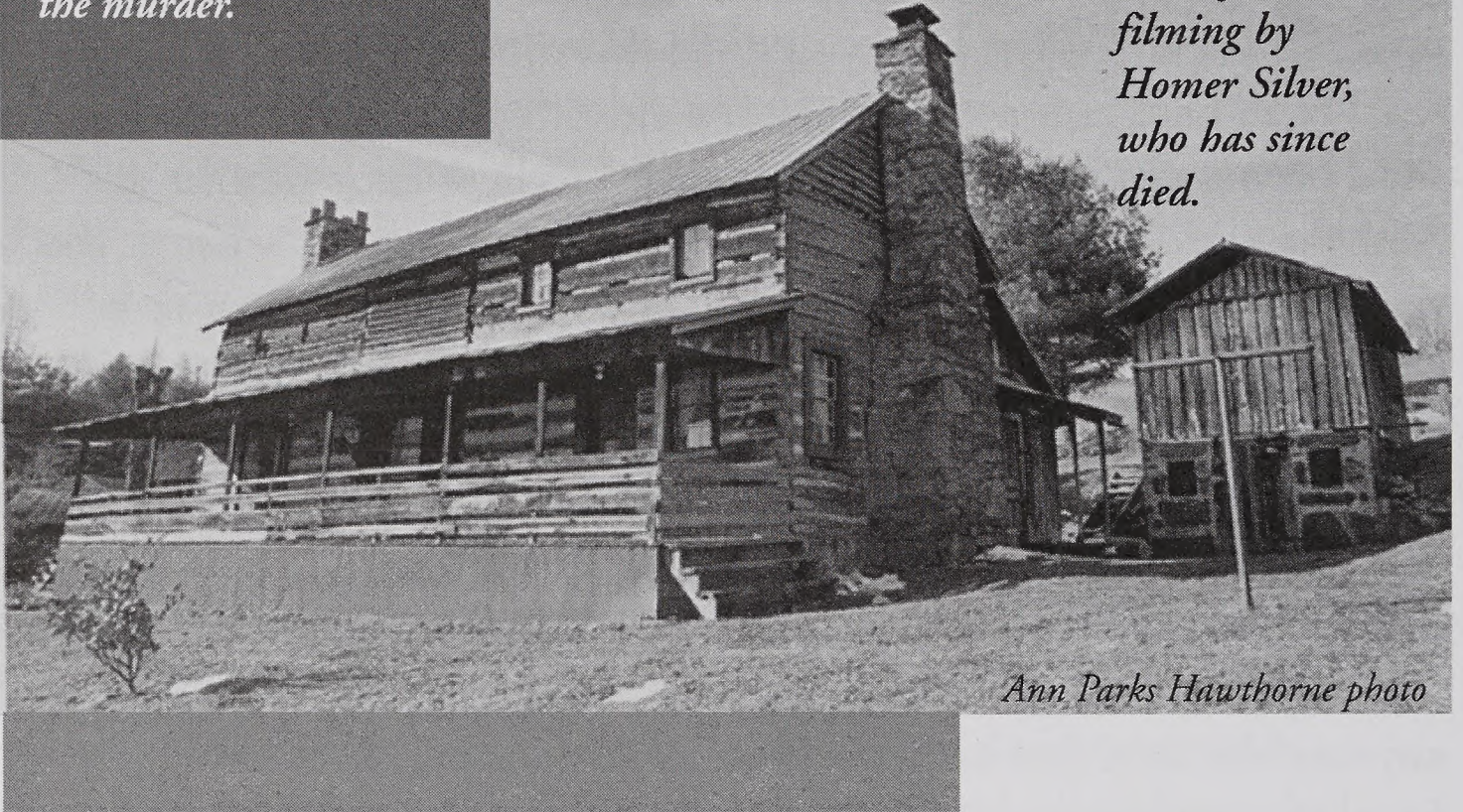
Bobby: Yeah.

Homer: I said, "You don't sell me damn stuff like that." I said, "I don't buy pigs in a sack." I said, "When you make up your mind you want to sell it, make me a clear deed for it; I'll buy it." That's the first time there's any record of it ever being sold. And it's never been mortgaged.

Bobby: Yeah.

*Frankie Silver
walked here carrying
her baby the day after
the murder.*

*The log house
where Charles
Silver grew up
was owned at the
time of the
filming by
Homer Silver,
who has since
died.*



Ann Parks Hawthorne photo

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Bobby: Charlie's daddy was getting pretty concerned about it then, so he put out word that Charlie was a-missing. And they got folks from all over the mountains to go to searching; and they hunted and looked and covered ever' track of ground, you know, in ten miles, I guess. Couldn't find a trace of him. They just didn't know what had happened.

Jeffrey Gray: There's one story that may possibly be true because it's told in so many different places: that Charles Silver's father went to Tennessee, which, of course, was just over the mountains from that part of Burke County—course it being now southern Mitchell County—and got a—it's described in one place as a Guinea conjuror and in other places as a black or Negro slave that had a conjure ball or a crystal that he could see and tell things from.

Bobby: And so he went and got it out, and they started asking it questions. Used the ball itself would be like the house. And they'd say, "Well, what happened? Which way did so-and-so go?" Well, it would just turn round and round, wouldn't move. And they couldn't seem to get

any clear-cut answer out of it and put it up. And so just as old Uncle Jake was fixing to leave, the man come out and said, “Well now, I’ve been thinking.” He said, “Do you reckon if your son, that your son could have been murdered and done away with at the house?”

.....

Bobby: Ever have anything but the fireplace to heat with?

*Inside the old log house where
Charlie Silver was raised.*

Homer Silver: Yeah, we do. My daddy stopped that up about, long about '40, I guess. The last winter we cut wood for it; we sawed down fifty-two big trees, saw logs, sawed them up for wood. One of my daughters lived over here two or three winters, and they had an oil stove in here. I come over here of a night and, hell, they'd scorch me in here.

Bobby: Yeah.

.....

Bobby: Well, before they got home, something had happened. They said that one of Charlie's buddies that would go with him a-trapping was a man named Jake Collis and said that he was pretty good friends with him and knew him fairly well. And he got kind of suspicious about what was going on because one day, as he was a-walking over to old man Silver's house, said that he noticed that Charlie's dog, that always went with him everywhere he went, would run up to the house and bark at it. And said it would just howl and bark and just go on. And said then it would run down the trail out of sight, and he didn't know where it went.

Well, he knew that Frankie was there then. But he kinda watched around the place till he seen her leave; and soon as she got out of sight, he went down there and investigated a little bit and she'd boarded up the doors. So he went over to old Uncle Jake Silver's and told him that he was just suspicious—or no, he didn't tell Uncle Jake—he was gone—he told some of the boys that was there about being suspicious what was going on, and they got a magistrate that lived there in the area, and two or three of them went back to the house. And they pulled the boards off; and they went in. And said when they went in there, said everything looked like it had been disturbed. Said it was pretty nice and neat in one way, but said they got over at the fireplace and said that the ashes looked awful greasy.

And they took some and poured water on them, and they went to making blubbers. And said that they got to looking; it looked like little chip marks on the wall. And they had puncheon floors back in them days, floors that had hooks—the planks had hooks on the end of them—and they raised that up and said there was blood stains in the dirt, down underneath, and chips of bone.

“Blubbers” is an old regional word for “bubbles.”

Jeffrey Gray: Other stories of the time say that Frankie was hiding in the woods, that she did not return to the cabin after his murder; and when they pulled up the floorboards, she came screaming into the room like a wild woman, like a wild animal, screeching out.

Jeffrey Gray, like Bobby, was raised in western North Carolina and was familiar with stories about Frankie. The detail about her running in “screeching like a wild woman” appears in Cabins in the Laurel, by Muriel E. Sheppard.

34 *Bobby:* They got to investigating further and went out, and that dog had come back. And it would go from place to place; and everywhere it would go, they’d find a little something to remind them of Charlie. Found his head in that old hollow stump. And the reason it was a-going down the trail out of sight, it would go down there to that old stick-out rock, where his lights was buried, and carry on. So they took his remains up and buried them. Some people said they buried them a little bit at a time instead of taking back up what they’d already buried, that they put him in three different graves. Now, I don’t know whether that’s the truth or not. But, anyway, they arrested Frankie and her mother, whose name was Barbara Stewart, and her brother, Blackstone Stewart.

Bobby: Why do you think they arrested her mother and Blackstone Stewart?

Wayne Silver: Well, frankly, I believe they may have become involved.

Bobby: I think so too.

Wayne: I believe once she killed him and she sees him dead, she goes running—she’s not going to come over here.

Bobby: Yeah.

Wayne: And see, the house was just across the hill.

Bobby: I wasn't sure how far it was.

Wayne: Five or six minutes away.

Bobby: O.K.

Wayne: But she didn't come to them. She went to *her* family; and I believe, I really honestly believe, and I can't prove—but what would you do if your nineteen-year-old daughter came to you and said, "I just killed my husband. He's lying dead by the fireplace. I didn't really mean to do it. I was protecting myself. And you know you're dealing with a rich family. We were land rich.

Tax records show that Charlie's father owned 300 acres of land; Frankie's father owned fifty.

Bobby: Yeah.

Wayne: And all of a sudden your family's saying, "Well, I tell you what. We'll help you, Frankie; we'll get rid of the body." Or "You do whatever you can to keep anybody from finding out; but if you get caught, it's your problem."

.....
Jeffrey Gray: You have to look at this case in light of the period of time and the role of women at that point in history, the role of women in society, and the view of the husband-wife relationship. And probably not at all, or in no way, can you discount the fact that it was an all-male jury.

.....
Bobby: The murder charge stuck for Frankie. My great-great-great grandfather, he was a witness at the trial, and some of the other members of the family. It was a huge family, anyway. Charlie not only had eight or ten brothers and sisters, his father had eight or ten brothers and sisters, and they about all lived in that country by then. And so they put her in jail, and they had a trial. Well, for some reason—I don't know why—she kept pleading innocent and demanded proof.

.....
Jeffrey Gray: One factor that has been attributed to her possible conviction was the fact that her attorney, that his defense was "deny all and make the State prove their case."

Bobby: And they thought it strange that, you know, they figured that even if she hadn't killed him, that she must have known what was going on. It would just about be impossible that she wouldn't have, but that was the, her case. And so finally, since she wouldn't give any indication that anybody else helped in the murder, they found her guilty on that evidence alone.

Jeffrey Gray: A defendant could not testify in their own behalf at their criminal trial. That changed, of course, after the Civil War. But she was also tried by an all-male jury. Women could not serve as jurors. And so it would be very difficult for an attorney at that time to present a defense on behalf of their client where their client was the only witness to the crime.

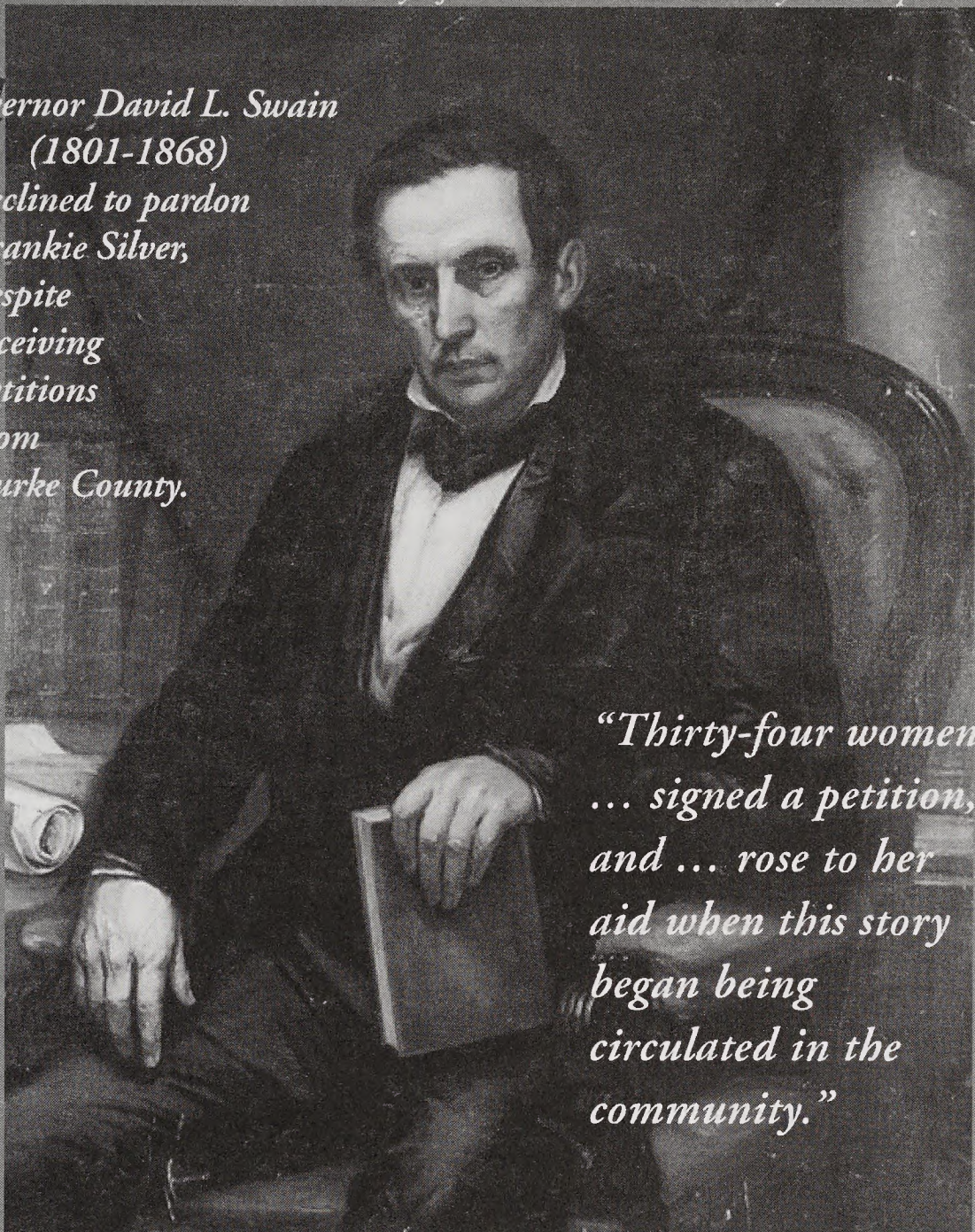
Wayne Silver: She chose to plead not guilty; but she also at the same time had talked to the sheriff and to her lawyer and had confessed that Charlie was loading his gun and that she picked up the ax and defended herself, and she hit him, all of a sudden discovering that he's dead by the fireplace.

Over a year after her conviction, Frankie Silver made an oral confession to "acquaintances" and then to her attorney and others. It was recorded in writing and probably got published in an issue of the Rutherfordton newspaper, but no one has yet found a copy of the document. Accounts of what it said differ but agree that she claimed she acted to defend herself.

Jeffrey Gray: The jealousy aspect, the question of whether or not she had caught him in some type of infidelity, later shifted to one of self-defense. It became known later on that he had abused her and that he beat her frequently. Thirty-four women, which I think is an interesting fact for that time, thirty-four women of the community signed a petition, and the women rose to her aid when this story began being circulated in the community.

*Photo courtesy of the North Carolina Collection,
University of North Carolina Library at Chapel Hill.*

Governor David L. Swain
(1801-1868)
*declined to pardon
Frankie Silver,
despite
receiving
petitions
from
Burke County.*



*“Thirty-four women
... signed a petition,
and ... rose to her
aid when this story
began being
circulated in the
community.”*

*The women’s petition to Governor David L. Swain, an
extraordinary document for the era, was signed by many of the
leading gentlewomen of the county, including Matilda Sharpe
Erwin, wife of a wealthy banker and plantation owner.*

*“And this [petition] went to the Governor, as a request
for clemency. And the Governor either didn’t listen, he
didn’t respond, and a very important point: seven of the
twelve jurors signed a petition—and ... it went directly
to the Governor—and seven of the twelve jurors said,
‘We know she was guilty, but we don’t think she should
be hanged.’ There was no response from the Governor.”*

Wayne Silver: And this went to the Governor, as a request for clemency. And the Governor either didn't listen, he didn't respond, and a very important point: seven of the twelve jurors signed a petition—and we have this letter, it went directly to the Governor—and seven of the twelve jurors said, "We know she was guilty, but we don't think she should be hanged." There was no response from the Governor.

.....

Jeffrey Gray: At that time, a husband was allowed to give what was referred to as "moderate chastisement" to his wife, or "moderate correction." It goes back to what has been referred to as "the rule of thumb," a rule brought to this country from England, that a man could strike or chastise his wife with a stick so long as it was no larger than his thumb.

.....

Bobby, singing a variant stanza:

His chattering tongue fell gently down
His pitiful voice soon lost its sound.
All ye that are of Adam's race
Let not my fault this child disgrace.

38

.....

Chamber of Commerce agent #1: Hi, can we help you?

Bobby: Yes, I've done some research on the Frankie Silvers story; and I know all the earlier parts of the story, but where she was incarcerated and had the trial, I've not been quite sure about. I knew it was here in Morganton, but—

CC agent #1: O.K. Well, we have lots of information on Frankie Silvers. This is the official court record, the judge sentencing her. We have her ballad. A biography. She's also buried supposedly on a red dirt hillside nine miles west of Morganton at the old Devault place, up near Lake James.

Bobby: O.K., so that's not the place where she was hanged?

CC agent #1: No, that's the place where she's supposedly buried.

Bobby: O.K., all right. Do you know where Damon's Hill is, the place that she was executed?

CC agent #2: It's right up the street, really. It's out on 181, out by the radio station.

Bobby: All right. Well, I'll take this with me, and we'll go look it up. And I appreciate your help.

CC agent #1: You're welcome, and just know that the children of Burke County are taught about Frankie Silvers.

Bobby: All right. Thank you.

CC agent #1: All right.

.....
Jeffrey Gray: She was given a respite or a reprieve of two weeks by Governor Swain from her original hanging date in June of '33 to the date she was actually hung in July of 1833, based upon her mistaken belief that she was going to be pardoned. And the Governor gave her two weeks, and as the letter said, "in order to prepare herself for her impending fate."

.....
Bobby: And in the meantime, her father bribed the jailer at the jailhouse there in Morganton to conveniently forget to lock the cell door. And so they spirited her out one night.

*Frankie's escape
took place late in
May, 1833.*

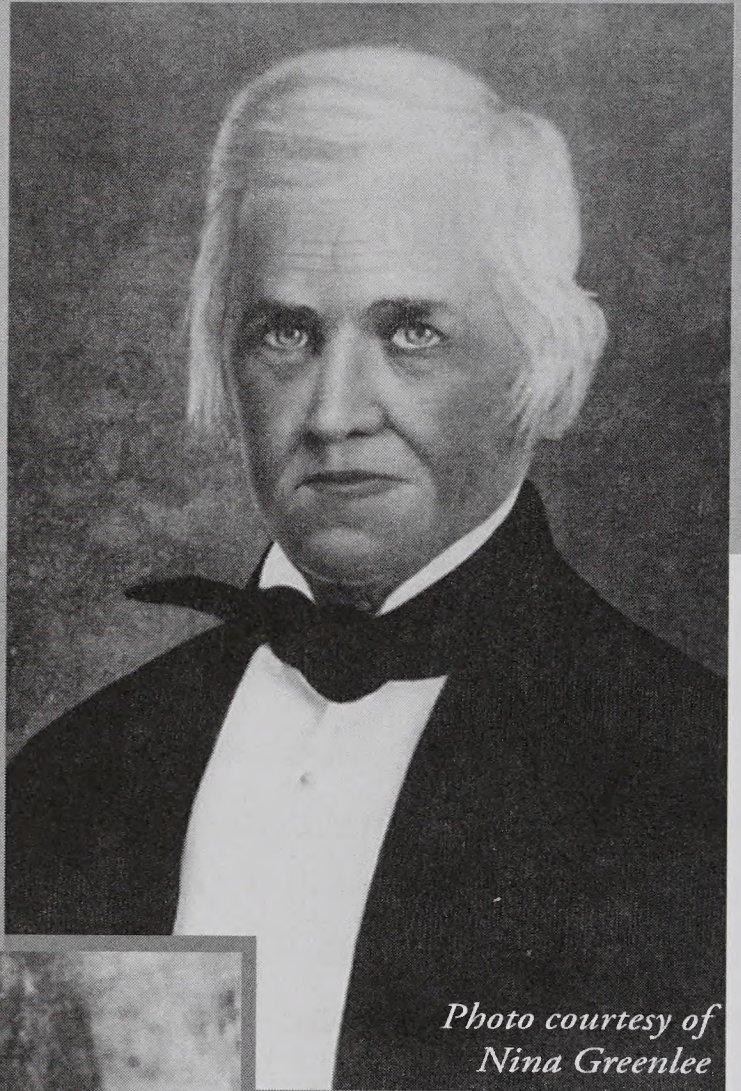
.....
Jeffrey Gray: When Frankie Silver became frustrated and her family became frustrated that she wasn't going to be pardoned, after the last denial of her pardon from the Governor and before her actual hanging, she was part of an escape. She escaped.

.....
Bobby: And they got her out of town; and when they did, they cut her hair off short like a man's. And that was a wonderful disguise in those days because women just didn't cut their hair then. It was thought to be just awful sinful for a woman to have her hair cut. So they cut her hair and give her an old felt hat to wear and dressed her up in men's clothing.

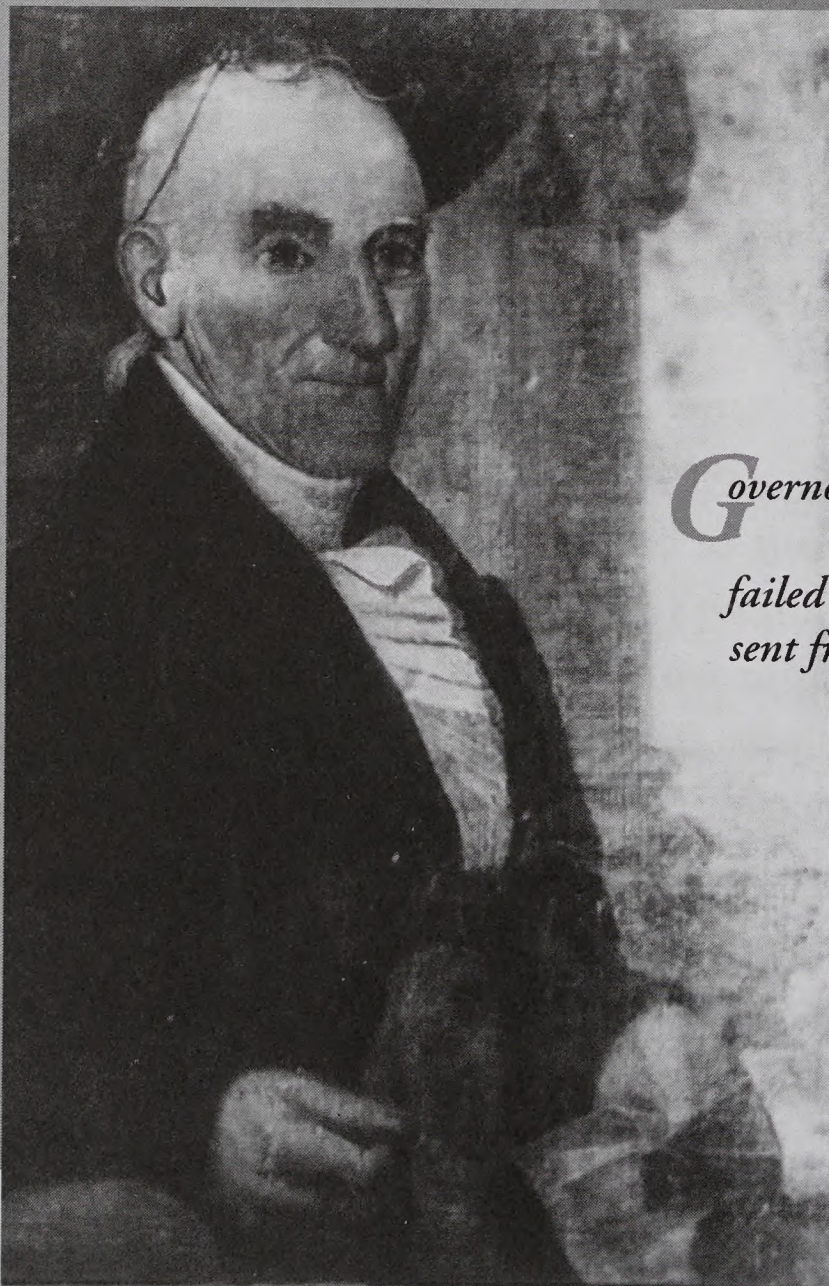
.....
Jeffrey Gray: And they were only stopped by flood waters in Rutherford County and were trapped by the sheriff's posse. And when he came upon them, of course, they had her there in the wagon; and her high-pitched voice gave her away as not being a male or a boy.

*Joseph McDowell Carson
(1779-1860)*

*signed a petition to
Governor Stokes and
wrote that he was a
“disinterested spectator” at
Frankie’s trial
and “thought the case
doubtful.” Her later
confession, now lost,
showed that he was
mistaken, but reportedly
claimed she acted
in self-defense.*



*Photo courtesy of
Nina Greenlee*



*Governor Montfort Stokes
(1762-1842)
failed to act on petitions
sent from Burke County
on behalf of
Frankie Silver.*

*Photos of Governor
Stokes (left) and
Judge Ruffin (right)
are courtesy of the
North Carolina
Collection,
University of North
Carolina Library
at Chapel Hill*

Photo courtesy of Bobby McMillon



*Peggy Silver Robinson,
Charlie's half sister,
testified at the
inquest hearing.*

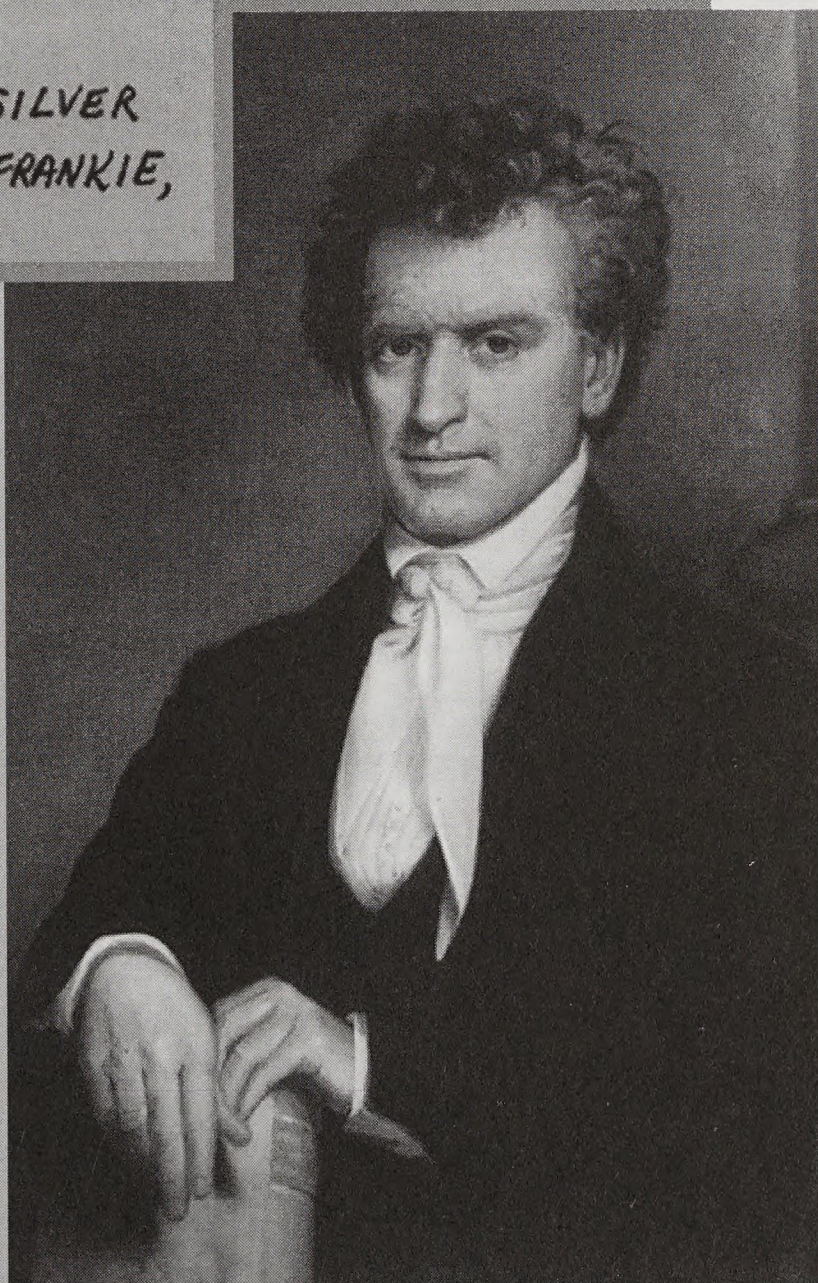
PEGGY ROBINSON

1815-1909

BOONFORD

SISTER OF CHARLIE SILVER
WHO WAS KILLED BY FRANKIE,
HIS WIFE.

*Judge Thomas Ruffin
(1787-1870)
wrote the Supreme
Court ruling rejecting
the appeal of
Frankie Silver.*



Bobby: But the sheriff and his men followed after her, and they looked across a bottom, and they seen some people over there tossing a ball back and forth. Well, one man—instead of catching the ball when it come to him—he'd miss it and he'd grab up like this with his hands. So the sheriff knew that's the way that women would catch the ball back in those days in folds of their apron. Only this should have been a man.

This motif also appears in one episode of The Adventures of Huckleberry Finn, but Bobby heard it from his Uncle Latt.

So by the time that his posse caught up with the folks that were out there playing, they'd already part of them got back in the wagons and part of them a-walking, and the sheriff rode up alongside of the person he thought was Frankie, and said, "Where you gwine, Frankie?" And she tried to put on a voice and said, "Well, thank you, sir, my name's Tom." And her uncle was up in the wagon driving it, right beside her, and he's wanting to help out all he could, and he said, "Yes, sir. Her name is Tom, her name is Tom." Well, the sheriff said, "Well, come along, Frankie."

42

.....
Dr. James McGimsey: I grew up in the third house down there, you know, from a little bitty child until I went off to school. And when we were small, back then, they would hire black women or any woman who would push us along in a baby carriage, you know, and we'd yell and scream sometimes, and they'd say, "Shut up! If you don't shut up, the boogerman'll get you." And they'd always point over here, and we got the idea there was something about this hill up here.
.....

Bobby: And according to the stories, the public came from miles around, out of the mountains. The hollows were spitting them out. They came and just crowded this whole hill to try to see Frankie being executed. There was a blind put up and erected to try to keep onlookers from actually seeing the hanging itself, but apparently that did little good. It may even have been taken down prior to the hanging.

As she was waiting there behind the scaffold, and when the sheriff went to lead her up, they asked her if she had any request. And she said yes, she wanted a piece of cake. And so they said, "Well, we can

do that for you, Frankie.” And they had cake brought to her, and she eat her a piece of cake and went up on the scaffold. And they said, “Frankie, have you got anything you’d like to say?” And she said, “Well, yes, I do.” And he said, “Well, we’d like for you to tell it.” She went to open her mouth, and just as she did—that crowd was all assembled down there in front, and her dad and mother was standing down there—and he said that her daddy hollered out, “Die with it in you, Frankie. Die with it in you.” And she closed her mouth and never said another word.

.....

Jeanette Kirksey, owner of house on Damon’s Hill: When I bought this house and somebody told me that this was the tree that she was hanged in, my son said, “Oh, great! Now the house is going to be haunted!”

Bobby: Oh, goodness. Dr. James McGimsey said when he was little and the black women would stroll them in their carriages, they’d tell them that there was a booger up here that would get them if they didn’t mind.

Jeanette: Look at it from down here. See the children have been sticking stuff down in there. It’s pretty hollow, you see. Yeah. But it’s huge.

Bobby: Yes, it’s about gone. It’s a shame that they, they get old and die like that.

Jeanette: And you can see that there’s a beehive in it now.

Bobby: I was noticing that. Surely it’s not warm enough for them to swarm. It was so cold this morning—I can see them coming out. They do that and then they’ll get froze.

.....

Bobby’s singing partner, Marina Trivette, singing verses one and two:

This dreadful dark and dismal day
Has swept my glories all away.
My sun goes down, my days are past,
And I must leave this world at last.

O Lord! what will become of me?
I am condemned, you all now see.
To Heaven or Hell my soul must fly,
All in a moment when I die.

*An interview
filmed in the home
of Bobby's
grandparents.*

Marina: I sort of put myself in her place and imagine how I'd feel knowing that I was facing death and was going to be hanged. I mean, that would be a scary thought for anybody; and to know you're going to leave your child for other people to raise

would be scary. You know, it gets to me sometimes. We've got some ballads that we can't sing because we can't get to the end of them for crying. (Laughs) So we don't try to sing those. We've got one, we never have made it to the end of it yet.

Bobby: I'm afraid I take that after my grandfather McMillon. He, he was real sensitive, and sometimes he wasn't above shedding a tear.

Marina: I believe that's the only thing a woman'd get mad enough about or—you know, if the man was running around on her or if he was abusing her in some way. If she could catch him asleep, she might get him. Like, you know, the women do nowadays in *The Burning Bed* and things like that. Maybe that was her only way to get him back, while he was a-napping.

*Marina alludes to the
made-for-television
movie The Burning
Bed, starring Farrah
Fawcett, broadcast on
NBC, 8 October 1984.*

Bobby: Well, he could've, he could've been mean to her. There was a lot of them Silvers that was queer, and they—I wouldn't put it past them. But after I found out his possible age, it made me sort of doubt that he would have been that far along to have been that abusive. He wasn't but I think eighteen or nineteen.

Bobby, singing verse seventeen:

Great God! how shall I be forgiven—
Not fit for earth, not fit for Heaven.
But little time to pray to God,
For now I try that awful road.

Bobby: After she was hanged, her father had several graves dug around about Morganton; and he was afraid that the medical students in the state or in the Southeast would hire gravediggers to come dig

up her body to take it to the hospitals where they were studying about disease and what caused it. Her father didn't want to take a chance on that, so they put her body on a wagon and put flour sacks or feed sacks over the top of her, and it was in July, and, of course, the weather was hot. And on the next morning they brought her up here on this hill, according to the story, and they buried her. It seems like even when I was a child and I would hear the story about it, that I never could conjure up a lot of the enmity toward Frankie. It just seemed that there's some element missing from the story that we don't know, that she must have carried to the grave with her, and apparently her family carried to the grave with them. I don't have animosity like probably some of the closer relatives to Charles Silver would have had. It just seems sad that if she died for someone else's deed that it never went avenged in this life.

.....

Jeffrey Gray: Taking all of this in the light of that period and trying to weigh it based on modern-day standards, trying to weigh it as the Governor's office would want to weigh any other petition for executive clemency, there was insufficient evidence to support granting a pardon of forgiveness to Frankie Silvers.

.....

Bobby: They claim that the family was curst after that. They said that the old man was killed later on while he was a-trying to cut a rail, split a rail tree, and a limb fell, knocked his brains out. And they said eventually old lady Barbara Stewart got bit by a copperhead, and she was an old woman, died of the complications. And Blackstone Stewart apparently moved off to Kentucky, and he got caught horse thieving, and they hung him. So that's the way people tend to think of getting paid back in communities like that. As I began to look back and find out a little bit about that family, I found that that may have all happened, but it didn't happen real soon and all at once, that it was scattered out over maybe thirty years.

I think a lot of times about their bodies laying out in the weather, and the snows come and go, and the birds sing and go away. And yet the memory has still been carried on, although five generations have passed. I hope she's resting in peace.

***B**obby McMillon at the age of nine, when he was first becoming interested in the stories of Frankie Silver.*



Epilogue: The Making of a Ballad Singer

Photo courtesy of Bobby McMillon

Bobby, singing:

Cold mountains they are here around us,
And waters trinkling down the stream.
All in my dreams I thought I was with her,
But when I woke it was all a dream.

Bobby: When I was growing up, we lived a good part of the time in a

“Cold Mountain” is a locally composed song, one of at least twenty-seven that Bobby learned from Rolf and W. T. Ellison of Watauga County. The melody is a “Wayfaring Stranger” tune.

section of Caldwell County, North Carolina, that is called King’s Creek. We lived out in a rural area, in the woods, you might say. And I think that was what—my mother was real nervous and that made me sort of nervous too as a child. I think she thought there were boogers hiding behind every tree, or maybe Indians were ready to come and get her or something; but she is a nervous person. The house that my mother grew up in sat on a hill, just above the mouth of the branch where Charlie was supposed to have fell through the ice. And we didn’t have any inside bathroom facilities. We had an old privy outside on the side of the mountain in the woods. And at night, until you went to bed, you had to go out of doors; and so as a child I didn’t like to do that very well because the dirt road that come just up above our house was in plain sight, and I was always afraid that I would see Frankie’s spirit come wandering around the road with a ax in her hand and blood in her eyes. And so I was real careful about how often I had to step outside until bedtime.

And then I would hear stories that the family would tell when they would get together about pant’ers and bears, and I’d love to listen to them. I don’t know why as a child—I guess other kids are this way too—they don’t like to be frightened; but in another way they do. And I just thought it was wonderful to hear these old things and stories. I was the oldest child in my mother and father’s family. My brother nearest to me is seven years younger, and so I had the stage for a long time. It was lonesome for a whole lot of the time.

The visual is a photograph of Bobby taken in San Diego when he was six.

When I was about six we went west.
My father got some work in Southern California, where two of my uncles were living and raising their families. And we stayed out there for a while. And it was like that I had just been killed almost, because I felt that I was taken from everything that meant anything to me. And it probably has followed me down all these years since; but for the whole time that we were there, I wanted to come home.

Bobby, singing:

Cold mountains they are here around us,
And waters trinkling down the stream.
All in my dreams I thought I was with her,
But when I woke it was all a dream.

48

Bobby: My mother's mother and father—from whom I learned the story of Frankie Silver, by the way—they raised me mostly and I would listen to them talk about their younger days and the people of their community.

Bobby's grandfather, Paw Paw Woody:

Cable broke and it run down in, off of that mountain and tore everything all to pieces.

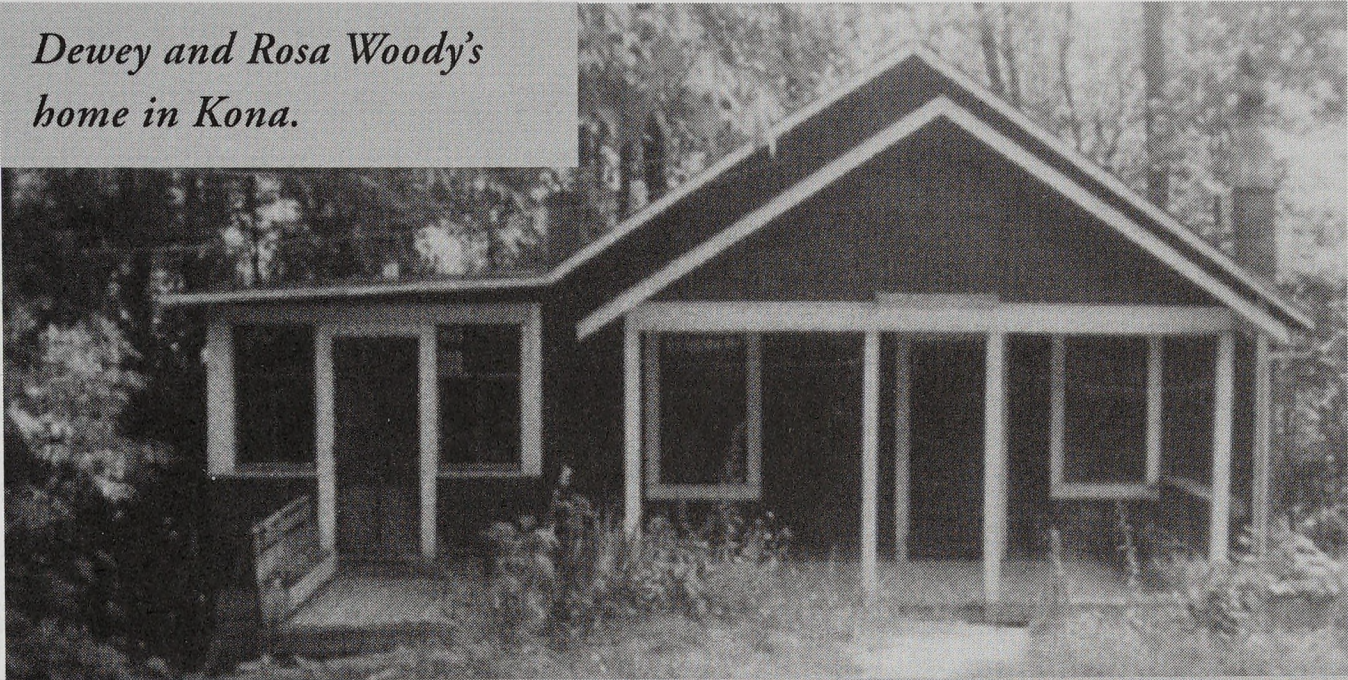
Bobby: Did anybody get hurt?

Paw Paw Woody: No.

Bobby: We all got along pretty good; but I reckon they thought I was sort of queer because I was interested in things that people my age, you know, just either hadn't took the time to learn or were ashamed of.

Dewey Woody's lore was mostly his personal-experience narratives about mining, logging, and other work he had done. Rosa Woody was "real sharp geared toward quilting and sewing and all kinds of housework and garden work and flowers—anything that grows or anything you do with your hands." Bobby developed a keen interest in these traditional aspects of their lives. The scenes were filmed in their later home in Lenoir.

*Dewey and Rosa Woody's
home in Kona.*



Bobby: "Toe River is down the hillside ... left of the house. [W]here Frankie Silver broke holes in the ice at the mouth of [the] branch is ... behind house."

Bobby was very close to his mother's parents, Dewey and Rosa Woody, who took care of him while his mother was ill. They lived in Kona, a half-mile from where Charlie and Frankie's house had stood. Bobby first heard about the murder from his grandmother.



*Dewey and Rosa Woody, Bobby McMillon's
grandparents, with whom as a child
he spent much time in Kona.*

Photos courtesy of Bobby McMillon

Marina Trivette, singing verse five:

I know his frightful ghost I'll see
Gnawing his flesh in misery . . .

Bobby: And I had known Marina for a couple of years before we ever actually done any singing. My cousin Pat, who worked with her at one of the Revco stores, introduced us; and one evening we both were over at Pat's house. I had my guitar and sung a little bit. Marina knew what I was singing and started in with it, and so—

Marina: I mean I actually learned it because my dad would sit up all night with his friends on Friday and Saturday nights playing music and singing songs. And I went to sleep hearing them and woke up the next morning, they'd still be there sometimes. They weren't partying or anything; they's just singing and playing music. And I was sort of around it my whole life. But my mother, she hated the music. She sort of blamed everything, I guess their problems, on him wanting to play music and go out, you know, and play and with his friends. And she sort of—she couldn't sing a lick. So she, I think maybe she was a little jealous of that. And she sort of wanted us not to follow that way, you know, but I'd always listen. I'd hear those songs and I'd listen to those stories and lay there sometimes when I was eight and nine years old and just cry over them sad stories.

Marina, singing:

My father he was a rich old jade.
My mother she was a lady fair.
And me a-being the only heir,
So love has brought me to despair.

Marina: We lived in a three-room house—me and my two brothers and a sister and my parents. And Daddy worked in a furniture factory; and I thought we were the poorest people around 'cause we had to go outside to the bathroom and this was like in the '60s and '70s, and I was ashamed of it, and I was ashamed of that old-time music, I guess,

Marina sings a stanza of "Love Has Brought Me to Despair" (Laws P 25). The song is not in The Frank C. Brown Collection of North Carolina Folklore, but Berzilla Wallin sings it in the album Old Love Songs and Ballads from the Big Laurel, North Carolina (Folkways 2309).

because I felt like that sort of all went together with being poor. And my friends were listening to rock-and-roll music and the Beatles and stuff, you know, and I'd listen to that too, but still down in my heart I always loved the old music. I loved to hear my dad play the banjo and the guitar and sing, and I'd sit and watch him sing; and he'd just cry, and I was just really—I guess that touched me to see a man cry over music.

Bobby: One of her cousins married into a musically inclined family who came out of Watauga County, and her first cousin's husband used to tip the jug quite a bit—he had been that night, I think—and she sang about that poor girl that hung herself because the butcher's boy left her. And we got through with that song, and he was just a-wiping tears out of his eyes. "That damn, that son-of-a-bitch, I'd kill him!" (Laughs) He was just, I mean that story to him just came alive when Marina sang it.

Marina, singing:

And me poor girl were dead and gone
And the green grass growing over me.
And me poor girl were dead and gone
And the green grass growing over me.

*Another snatch of "Love
Has Brought Me to
Despair."*

Bobby: When I was sixteen my father bought me a little RCA reel-to-reel tape recorder, run off of either electricity or battery that would hold a five-inch spool of tape, and I would go and tape anybody that I could like that. I used to sit facing Paw Hopson. He'd be on another couch. I'd be setting like this. And there was a coal stove that sort of halfway cut us off. It was always hot. I'd be burnt up in the winter time, but anyway, I'd set my tape recorder here and hold the microphone in my hand and get him to telling it—because I didn't want him to be self-conscious about it. And so he'd tell me everything just exactly the right way.

*Isaac "Paw" Hopson
was a grandfather of
Bobby's first cousins,
and Bobby grew up
loving his stories and
in high school began to
"collect" them with his
tape recorder.*

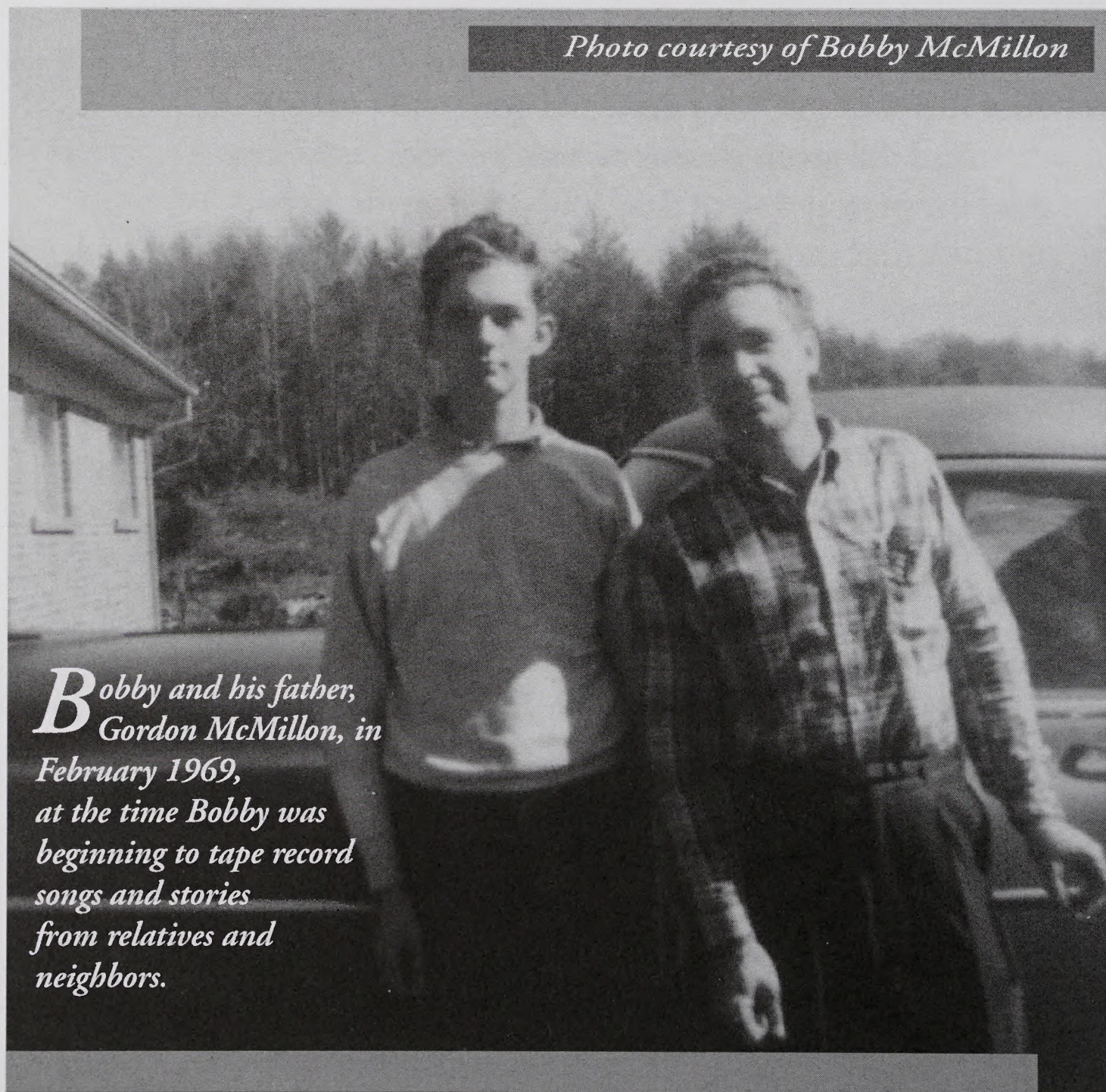
That's what I was wanting, not something that he would have to clean up a little bit if he had to in order to tell it.

Mae "Maw Maw" Phillips of Cosby, Tennessee, Bobby's aunt by marriage, taught Bobby scores of old songs. Their shared love of song created a very strong bond between the two of them.

And one of my great-aunts by marriage taught me an awful lot of the songs that she learned as a child growing up, and I think I could always relate to her because she sort of had a lonesome-type childhood too. And it was why she had learned a lot of the songs from the people first hand as she grew up. This is a song that I learned from her, and she learned it from her first cousin, who got

in trouble with her school teacher. And her school teacher had taught the cousin this song one night while they were having a meeting in one of the old one-room schoolhouses, that lasted all night.

Photo courtesy of Bobby McMillon



***B**obby and his father, Gordon McMillon, in February 1969, at the time Bobby was beginning to tape record songs and stories from relatives and neighbors.*

*Another ballad not
in the Brown Collection.*

*It is not an accident that other songs about conflicts in love join
"Frankie Silver" in the singer's repertory. However fictitious, the
songs appeal because they hold truths about human experience.*

Bobby, singing:

Well, a maid a-being young, she thought it no harm.

Well, a maid a-being young, she thought it no harm.

Well, a maid a-being young, she thought it no harm.

So she jumped in the bed and rolled in my arms.

And it's what I done there, I cannot tell here.

And it's what I done there, I cannot tell here.

And it's what I done there, I cannot tell here.

But I wish that night had a-been a long year.

Well, a six months passed and the time rolled by.

Well, a six months passed and the time rolled by.

Six months passed and the time rolled by.

Her slippers wouldn't button; her apron wouldn't tie.

Well, if it's a girl child, hire it a nurse.

Silver and gold, put money in its purse.

Take it on your lap and comb its little head.

And don't forget the night when I got your maidenhead.

Well, if it's a boy child, name it after me.

Stick a gun in its pocket, dress it in blue.

And tell it to see the girls like its papa used to do.

How much more time do we have? I'm not sure how far to go.



*Views of exhibits
inside the Silver
Family Museum.*

*Daniel Patterson
photos*



“Give Me the Truth!”
The Frankie Silver Story
in Contemporary North Carolina
Beverly Patterson

Several years ago, the Folklife Program of the North Carolina Arts Council gave a small grant to filmmaker Tom Davenport to document storyteller and ballad singer Bobby McMillon. A native of western North Carolina, Bobby grew up in the mountains of Mitchell and Caldwell counties and continues to live there near the furniture manufacturing district where he has often worked. He is widely respected by folklorists in the state for his knowledge of regional tales and ballads and for his ability to communicate his deep feeling for them. When our panel funded the Davenport film project, the Folklife Program had already recorded over 400 ballads and songs in Bobby’s repertoire; and we saw the film as an opportunity to document his storytelling.

Bobby could have told any number of stories for this film—he must know hundreds—but he and Tom Davenport agreed on the story of Frankie Silver, a cycle of legends about a nineteenth-century murder in Bobby’s own family. This subject appealed to the filmmaker for several reasons: The story was compelling, it had a number of episodes that would provide structure and focus, and the storyteller could be filmed on location where the events happened.

Frances “Frankie” Stewart Silver was tried in Morganton for murdering her husband, Charlie Silver, with an ax and trying to conceal the crime by dismembering his body and burning it in the fireplace. After her conviction in March 1832, issues of truth and justice came under much discussion in the community; and many men, including even members of the jury that convicted her, petitioned Governor Montfort Stokes to pardon her. A year later when abuse and self-defense eventually emerged as her likely motives, local public opinion turned from horror to sympathy for Frankie; and more men and a group of influential women in Burke County signed

petitions to the new governor, David L. Swain. Their petitions were not successful. Frankie was hanged on July 12, 1833.

Those events produced a ballad, as well as local legends. The ballad has not been sung widely since the 1920s and 1930s, when it was commercially recorded by Byrd Moore and His Hot Shots, the Toe River Valley Boys, and others; but the legends are as active now as they were 160 years ago—maybe more so. The Davenport film hints at some of the current interest in Frankie Silver, weaving questions and comments from other family and community members into Bobby's account. The film contrasts these local perspectives with that of Jeffrey Gray, who was an Assistant Attorney General for North Carolina when the film was being made. Gray became involved with the case at the request of Governor James B. Hunt, Jr., in response to a petition for a Pardon of Forgiveness for Frankie Silver submitted to the Governor's office in the mid-1990s. With the introduction of each new perspective, viewers become increasingly aware of the story's continuing vitality.

56 A closer look is even more revealing. The source of the 1994 petition to Governor Hunt, for example, was an eighth-grade English teacher and her students at Heritage Middle School in Valdese, not far from Morganton, where the trial and hanging took place. The spring of 1997 marked the fifth consecutive year this teacher, Ms. Jo Ball, had collaborated with the entire eighth-grade faculty at her school to carry out a five- to six-week unit on Frankie Silver. The faculty, says Ms. Ball, uses the story to teach virtually everything in the eighth-grade curriculum including social studies, North Carolina history, math, science, English, creative writing, art, music, and drama. At the end of the unit, all eighth-grade students meet in the auditorium for the culminating event: an improvised "retrial" of Frankie Silver.

At the 1997 Heritage Middle School retrial, the stage was set with prosecution and defense teams flanking a podium at center stage where "Judge Donnell" presided. After witnesses were sworn in, the "lawyers" examined and cross-examined them. In this retrial, "Frankie" was allowed to testify in her own defense, something that was not permitted by evidentiary law that governed her actual trial in 1832. The jury, chosen from the audience of eighth graders and their

parents, deliberated and returned a verdict that acquitted Frankie for the fifth year in a row.

About a month later, Western Piedmont Community College sponsored a production of *They Won't Hang a Woman*, a short drama adapted by Cheryl Oxford from a book by former Burke County social studies teacher Maxine McCall. A local cast staged the play in the old Burke County Courthouse, very near the place where the actual trial took place. All three evening performances were sold out; and so was the noon performance on July 12, 1997, the 164th anniversary of Frankie's execution. Producer Cheryl Oxford, folklorist and faculty member of Western Piedmont Community College, scheduled a Sunday performance to handle the overflow. When Ms. McCall introduced the play, she told the audience that she wrote *They Won't Hang a Woman* after a review committee for textbooks on North Carolina history found only two mentions of Burke County history in those books and "both of them were wrong."

On the fourth Sunday in July, the Silver family had its 1997 reunion, an annual event in the Kona community, where the Silvers settled after the Revolutionary War. The old Silver home place, a two-story log cabin where Charlie Silver was raised, is a landmark in this beautiful mountain valley and is one of the oldest homes still standing in Mitchell County. Up the hill and across the road from the home place is the old Kona Baptist Church, and behind the church is the cemetery where the family congregates for a Sunday morning memorial service during the reunion. A tall gravestone for Revolutionary War soldier and family patriarch George Silver dominates the cemetery. Off to one side are several unmarked graves. Legend says that three of them are the graves of Charlie Silver, where parts of his body were buried at different times as they were found.

A sign painted on a nearby rock invites visitors to see the exhibit in the old church, which is no longer used for meetings. Many of the displays focus on Frankie Silver: framed feature stories about Frankie and Charlie from regional newspapers; a handwritten copy of the ballad; and a poster with information about a ballet, *The Ballad of Frankie Silver*. This ballet, produced and performed by a dance company based in Basel, Switzerland—the Tanz Ensemble Cathy Sharp—was presented in Atlanta during the 1996 summer Olympics

as part of the Cultural Olympiad. Music for the ballet—by Panaiotis, an American composer from Cary—is available on a compact disc.¹ Members of the dance company had attended the 1996 Silver family reunion.

Other outsiders were much in evidence at the 1997 reunion. Just a short ride from the old church, family and friends gathered around tables in the basement of another church to enjoy a meal together, surrounded by even more Silver family exhibits. There, independent videographer Richard Eller filmed interviews at the reunion as part of his own project on Frankie Silver for a local cable television station. His video, *Frankie Silver's Deed*, was ready for broadcast a few weeks later. Another reunion visitor, Howard Williams, a drama teacher and native of Morganton, talked informally about his project, *The Legend of Frankie Silver*, a play he had written and presented at Brewton-Parker College in Georgia in 1993. He has recently established the Frankie Foundation in Morganton for the purpose of producing the play there.

58 But the most celebrated person at the reunion was popular writer Sharyn McCrumb, who claims to be a descendant of one of Frankie Silver's brothers. She had just completed her book, *The Ballad of Frankie Silver*, which has subsequently been published. Ms. McCrumb's reading from that manuscript was a reunion program highlight.

Reports of other Frankie Silver-related projects trickle in from time to time. An alumnus of Mars Hill College reported performing in a play about Frankie Silver at the Repertory Theater there in the 1970s. The play was written by Susan Graham Erwin, sister-in-law of the late Senator Sam Ervin. The production had been "as graphic as they could make it," complete with blood bags and a realistic-looking hanging. The result: "Everyone loved it." A 1997 video entitled *The Frankie Silver Story* featured British storyteller Geoff Wood standing by Frankie Silver's grave and telling her story (Mull). In 1998, independent filmmaker Theresa Phillips began shooting a docudrama for Legacy Films in Mars Hill based on her screenplay of the Frankie Silver legend. She has mentioned three Silver family members she knew who were working on their own separate manuscripts about Frankie Silver. These are only a few of the latest

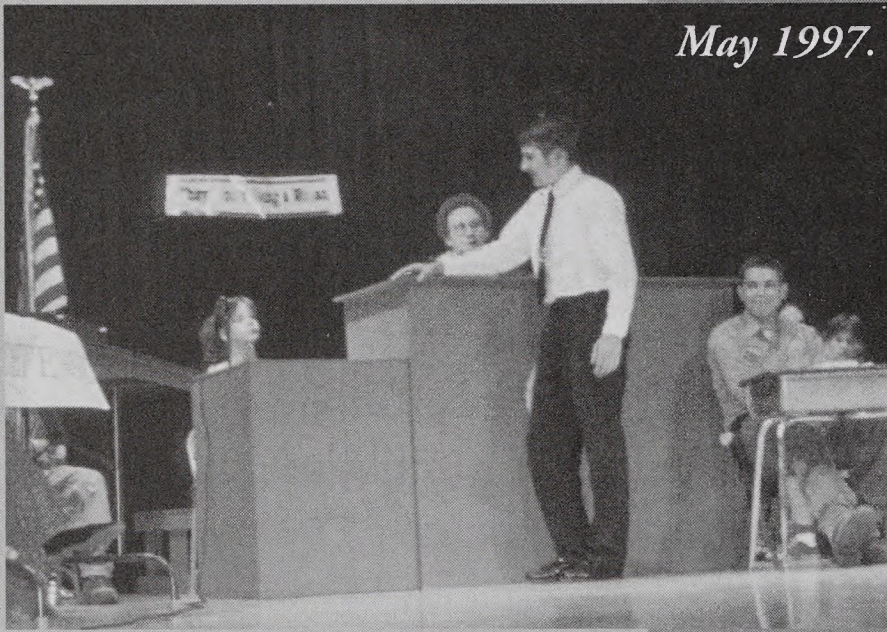
manifestations of interest in Frankie Silver. Articles and feature stories about Frankie Silver have appeared in books, journals, and magazines in a steady stream since the 1885 publication of the text of her supposed song in a local paper. Book-length studies have also begun to reach print. *Silver Notes*, the Silver family newsletter, reports some new project almost every month.²

With so much evidence of family, local, state, and even some international interest in this North Carolina story; with a great surge of interest in heritage tourism; and with an increasing public awareness of domestic violence issues, producers of *The Ballad of Frankie Silver* thought the University of North Carolina Center for Public Television would welcome the opportunity to show the Davenport film. Nevertheless, the film was rejected by the program development officer who wrote the following on behalf of the Center's director:

While the story of the murder may have some interest factor for some, we feel the violent acts are too graphic for our air. We also feel that although you did include some additional material from the legal perspective, the program will not provide a strong educational or enriching experience for our viewers. We also shared your program with members of our Board of Trustees to ensure that their standards were the same as ours. They were. For these reasons, we must decline the opportunity to broadcast *The Ballad of Frankie Silver*.

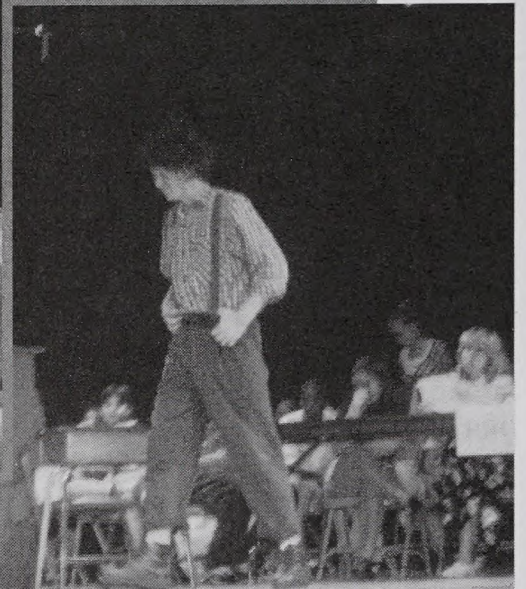
What could this possibly mean? Perhaps it meant that Bobby McMillon told this tragic story very well indeed. Certainly the Davenport film contains nothing to rival the crime scene in a PBS two-part dramatization of Minette Walters's novel, *The Sculptress*, in which a woman is accused of murdering and dismembering her mother and sister. The television program, which aired on *Mystery!* in November 1997, gave North Carolina viewers a horrifying glimpse of the bloody kitchen shortly after the story opened. In the Davenport film, quite the opposite happens. Viewers see no violence, just people telling family and community stories that have been passed on for generations.

*Below: Prosecution
interrogating Frankie Silver.*



*Scenes from
Heritage Middle School's
"retrial" of Frankie Silver,
Valdese, North Carolina,
May 1997.*

*Right: Witness Jake Collis
taking the stand.*



Daniel Patterson photos

Thoughtful viewers and funding agencies that continue to support well-made documentaries of traditional culture have found themselves echoing a challenge Wayne Silver expressed in the film as he talked about the stories that still circulate about Frankie Silver: "Give me the truth!" Like Wayne Silver and many others, folklorists have found themselves caught up in a search for historical documents and court records that would answer questions about the facts of the case of Frankie Silver. But folklorists are also among those who have been moved by Bobby McMillon's skillful, affecting storytelling. *The Ballad of Frankie Silver* has won recognition from independent filmmakers in North Carolina and has received top honors from the Society of North Carolina Historians—and with good reason. Bobby McMillon's story of Frankie Silver reveals deep truths about how people come to terms with life and death and family tragedy.

This essay is adapted from a paper presented at the 1997 meeting of the American Folklore Society and was revised for publication in the Journal of American Folklore, which has graciously consented to its reprinting in these pages.

Notes

¹ Panaiotis, CD recording, (Kingston, NY: Pan Digital Corporation and Maverick Music Project, Inc., 1994).

² For example, *Silver Notes* had entries on the progress of the Legacy Films docudrama in the January 1997, April 1998, and June 1998 issues; on a panel about Frankie Silver at the Appalachian Studies Conference in the April 1998 issue; on Jim Harbin's *To Right the Legend of Frankie Silver: Nancy's Story* (Maggie Valley, NC: Ravenscroft Publishing, 1998) in the June issue; on Pat Dowd's numbered prints of Frankie and Charlie's cabin in the August 1998 issue; on the International Ballet Company's filming for a video entitled "The Ballad of Frankie Silver" in the February and April 1999 issues; and entries in the August 1999 issue on Rex Redmon's thesis "Tragedy on the Estatoe" and Perry Young's "Frankie's Child," an addendum to and correction of his *The Untold Story of Frankie Silver: Was She Unjustly Hanged?* (Asheboro, NC: Down Home Press, 1998).

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View from the old Baptist church cemetery in Kona, North Carolina, during Silver family reunion, July 1997. Three uninscribed stones in the foreground are said to mark the graves of Charlie Silver.

Daniel Patterson photo

**The Ballad and the Legends
of Frankie Silver:
A Search for the Woman's Voice**
Daniel Patterson

Western North Carolina in the 1830s was a region of tiny villages in a sweep of forest broken by many small farms. It had a few professional men, entrepreneurs, and wealthy slave-holding planters; but it was predominantly a subsistence-farming culture, traditional and face-to-face. This was no Golden Age of harmony and tranquility. In the 1830s, the newspapers and court documents recorded a steady series of violent crimes: Sally Barnicastle and Catharine Bostian murdered their babies; Joseph Wilson hanged his wife to a sapling in woods near his house; a man named Osborn split his mother-in-law's head with an ax, chopped her body to pieces, used the axe to kill one of his children, and then tried to burn their bodies; Charity Norwood was found stabbed and beaten to death and burned in the forge of her husband's blacksmith shop. Every one of these incidents has long been forgotten. From the same years and region, only the case of Frankie Silver has remained alive in memory to give rise to historical and legal studies, newspaper articles, several plays, several videos, two novels, a ballet, a school syllabus, a family museum, and a recent petition to the governor.

Why Frankie Silver? Song and journalism, I think, can take the credit, as in the similar cases of Naomi Wise, Tom Dula and Laurie Foster, Patsy Beasly, Nell Cropsie, and other crimes remembered in the state. One of Frankie Silver's contemporaries composed a ballad, and local people sang it. Probably the song kept discussion alive long enough to transmute gossip and fact into legends with staying power. These surfaced in newspapers—the ballad first and then the legends—beginning an innumerable series of journalistic re-printings and retellings that helped to spread and perpetuate the story.

What interests our contemporaries—the novelist, the teacher, the

lawyer, the feminist, even the family member—is a series of problems in the case: the conduct of the trial itself, Frankie Silver's confession that explained her motivation as an attempt to defend herself from abuse, the efforts local people made to get her pardoned, and the unwillingness of two governors to exercise executive clemency. The ballad and the legends do not mention these issues. Their own messages also differ and are worth exploring.

64 In the original community, the legends were normally told, as Bobby McMillon phrases it, "in bits and pieces."¹ Individuals exchanged episodes, argued about their plausibility, and invoked the authority of their sources. But in 1903, a young journalist named H. E. C. "Red Buck" Bryant interviewed Alfred Silver, the elderly half-brother of the murder victim. Bryant published this interview as a newspaper feature story (10). This long narrative strung many episodes together into a cycle that was apparently not the creation of the journalist. From Lucinda Silver Norman, another half-sibling of the murder victim, we have a second telling of the entire legend cycle. Muriel Sheppard wrote an account based on it for her book *Cabins in the Laurel*. Bobby McMillon has heard other rather full tellings from his grandmother's uncle, Latt Hughes, and taped some of the episodes Hughes told. And Tom Davenport videotaped Bobby McMillon's own thirty-one minute rendition of the legend cycle and used much of it in his video *The Ballad of Frankie Silver*. In each case, the circumstance that provoked the creation of the cycle was the need to tell the story to someone unfamiliar with it: an outsider, a member of a younger generation, etc.

Bobby McMillon and others tell the legend as a quest for historical truth. While the four accounts differ in what they present as the truth, they all give the material a remarkably similar artistic treatment. Their legend cycles are so patterned and artistically effective that the listener may not even question episodes describing events no one witnessed. Bobby, in fact, repeatedly calls his material "a story that happened." All four recorded tellings show a narrative method strikingly like that of a classic British traditional ballad. The legend cycle focuses on action and circumstance, not on psychology. It begins *in medias res*, with Charles chopping wood on the snowy day of his murder. It unfolds the story in action and dialogue. It leaps

across space and time between episodes, but lingers on the chosen scenes. It avoids an explicit moral, but the patterning of the scenes discloses implicit truths. The scenes fall into six major blocks, in pairs that balance each other: the murder/the punishment, the concealment of the crime/its discovery, the desecration of Charles's body/the vain attempt of Frankie's family to protect her body from insult. Without ever explicitly pointing to a moral, the tale in effect dramatizes proverbial teachings. Justice prevails. Truth will out. Respect the dead.

One episode in the legend cycle concerns the origin of the Frankie Silver ballad (Laws E 13). It says that Frankie herself composed the song and sang it from the scaffold. Alfred Silver told this story in his 1903 interview and further described the ballad as having been "printed on a strip of paper and sold to people who were assembled at Morganton to see Franky Silver executed." No such broadside of the song has ever been found, nor is any song broadside known to have been printed in North Carolina that early. The Frankie Silver song seems first to have appeared in print in 1885 in a local newspaper, where it had the title "Frankie Silver's Confession."

That title, however, drew a sharp letter from a reader in Kentucky, one Henry Spainhour. A native of North Carolina, he had been working in Morganton at the time of the murder, trial, and execution. He said the piece was not by Frankie at all, and he personally knew the author. This was a 17-year-old co-worker named Thomas W. Scott, who based his Frankie Silver song on an older ballad called "Beacham's Address," which Scott had learned from a third employee named Wycoff. Spainhour's account is probably accurate. Research verifies many of his details, including the existence of a song called "Beachamp's Address" or "Beauchamp's Confession" (a ballad about the execution of Jereboam Beauchamp in Kentucky in 1826) although a text of it described by Josiah Combs and Hubert Shearin has disappeared (*A Syllabus*, 16).

The significance of these details is not simply that they exonerate Frankie of the authorship of rather weak ballad verse, but that both songs stand in the venerable broadside tradition of the "criminal's farewell" or "criminal's goodnight." The song presents itself as the confession of a remorseful criminal. Hundreds of earlier broadsides

also took this stance. And like the “Frankie Silver” ballad, many of these other songs were said to have been sung by the condemned at the scaffold. The criminal’s farewell broadside, in fact, for centuries had a recognized place at executions in the British Isles. Even as late as the 1840s, broadside “farewells” issued for two British executions are said to have sold two and a half million copies each.

Criminal justice in North Carolina and other American states in the 1830s perpetuated eighteenth-century British justice. The town where Frankie got hanged grew up around its shabby, unpainted, weatherboarded courthouse and its log jail with a door and two windows. “Hard by” stood “a splendid two-story whipping post and pillory” (McDowell). And doubtless when needed, a scaffold. These were sites where officials rendered public justice. One woman who heard a rumor that the Governor had pardoned Frankie went home disappointed, “crying, a pardon had been granted to a poor culprit & she had missed seeing a great sight” (Wilson).

66 But the purpose of pillory, whipping post, and gallows was not spectacle for spectacle’s sake. Executions were the ultimate statement of society’s codes and power. One New England minister celebrated an execution with a sermon to the criminal, warning that “In about three hours you must die—must be hanged as a spectacle to the world, a warning to the vicious” (qtd. in Masur 25). A similar instructive purpose was recognized by those involved in Frankie Silver’s case. A man writing to the governor recalled a conversation in which he advised the governor that he thought Frankie a “fit subject for Example”—that is, that she should be executed as an example to the public (Newland).

North Carolina justice, until the Constitution of 1868, perpetuated many varieties of public punishment for the purpose of example. Prior to that year, a number of crimes carried the punishment of thirty-nine lashes on the bare back, “well laid on.” A person convicted of perjury was to “stand in the pillory for one hour” and at the end of that time to have both his ears cut off and “nailed to the pillory by the officer, and there remain until the setting of the sun.” For counterfeiting one could receive lashes, imprisonment, and branding “in the right cheek with the letter C”; many other felonies could be punished with a brand “upon the brawn of the left thumb ... these marks to be made by the sheriff openly in the court.”²

Executions remained, of course, the most dramatic of the public punishments, complete with audience, star players, costumes, a stage set, and conventional actions and speeches. An editorial account of an execution in Raleigh in 1830 exclaims, "Such a multitude never before assembled in this City ... During the morning, every avenue leading to town, was literally blocked up with human beings of both sexes and of all colors, and ages." Authorities heightened the drama of the event by the way they clothed the criminals. One of the condemned men, Elijah W. Kimbrough, "was habited in a long white shroud which entirely concealed his person;" the other, "negro Carey," wore "a similar garment, except that it was black" (*The Raleigh Register* 3). Five years earlier in 1825 in Warrenton, Oliver Lewis, a man to be hanged for murder, was first taken "under strong guard" to the Episcopal church, where the Rev. Mr. Brainerd delivered "a most eloquent and touching discourse on the occasion" (*The Raleigh Register* 3).

In Frankie's time, then, an execution still generated behavior that had been conventional in the colonial era, when "Theatrical elements came out with special force at hangings." The condemned themselves "were expected to play the role of the penitent sinner; it was best of all if they offered a final confession, a prayer, and affirmed their faith, in the very shadow of the gallows" (Friedman 27).

The condemned, however, was not always so compliant. Joseph Sollis, at his execution in Duplin County in 1827 for the murder of Abraham Kornegay, refused to play this part. After the clerical gentlemen had done what they conceived to be their duty, the sheriff told the criminal that he had but a few moments to live and that if he had anything to say to his friends or the public, now was the time. Sollis observed, in a strong tone of voice, that "he had nothing to say more, than he would not be in this fix but for Kornegay." He was admonished by a humane gentleman present not to die with malice in his breast, to which he replied, "Kornegay was in fault, he began the affray, he was to blame for all" (*The Raleigh Register* 3). He then with a firm step mounted the scaffold; the sheriff tied the rope, pulled the cap over his eyes, and cut away the scaffold.

Sollis refused, then, to play his prescribed role—just as Frankie Silver, according to the legends, did not play hers. When the sheriff asked if she had anything she would like to say, her father reportedly

shouted out from the crowd, “Die with it in you, Frankie! Die with it in you!”—and she closed her mouth and never said another word. When the criminal did not confess, the “criminal’s farewell” song might serve as a surrogate confession to round out the ritual.

But we also sense in these criminals’ confession songs an undercurrent of ambivalence. Early justice was harsh; and in the British Isles, from which many Americans emigrated, crimes for which death was the penalty leapt from 50 in 1688 to over 200 by 1820. Property rights were ascendant, and the propertied protected their privileges with sanctions of utmost severity. The farm laborer or the street vendor, the Irishman, the Scot, or the London mob felt the keen severity of the law and resented its abuse by the wealthy and powerful. Crowds attended the spectacle of a punishment at the pillory, whipping post, or gallows; but they often sympathized with the prisoners, particularly with those who bore their part with courage. At Tyburn Hill in London, they sometimes rioted and beat the hangman. Many of the old songs about executions show this sympathy with the condemned, especially those ballads that survived long in oral tradition.

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The execution of Frankie Silver called forth a conventional “criminal’s farewell” on the broadside model. It pointed the moral of this public drama of crime and punishment. It would seem to corroborate Stuart A. Kane’s theoretical, political interpretation³ of the function of ballads and chapbooks about “wives with knives”: that authorities allowed their printing and circulation because they had “an instructional effect,” stimulating “a consensual self-regulation by the lower classes, men and women alike” (232).

The moral, however, is not the entire meaning of the song—and certainly not the reason why people still sing it. The first-person stance of “Frankie Silver’s Confession,” in fact, compels identification with Frankie. Singers and listeners must in some degree take the words as their own and genuinely share Frankie’s feelings of remorse, fear, and despair. Marina Trivette, Bobby McMillon’s sister-in-law and singing partner, says as much in Tom Davenport’s videotape: “I sort of put myself in her place and imagine how I’d feel, knowing that I was facing death and was going to be hanged. I mean, that would be a scary thought for anybody.” And she adds, as her own child clambers into

her lap, "To know you're going to leave your child for other people to raise would be scary. It gets to me sometimes. We've got some ballads we can't sing because we can't get to the end of them for crying!"

The actual Frankie Silver was virtually voiceless in her society. Like the rest of her family, she was illiterate and could not write her letter to the world. Five or six weeks before her execution, she called together some of her acquaintance and confessed that she did kill her husband Charles. Accounts of her confession differ, but she said either that he was beating her with a stick and she hit him to defend herself, or that he was loading a gun to shoot her and she struck first with the ax. Both the manuscript and printed transcriptions of her words have disappeared; time has robbed her of this voice of her experience. The law also robbed her of her voice. As an accused felon, she could not, under the legal practices of that day, testify either for or against herself in the trial. As a woman, she, by law, could not have used self-defense as an argument in the trial unless she had a witness who could testify that she had not given her husband provocation and that his beating had gone beyond "moderate chastisement," which the law permitted. The legends give her no voice: they are mostly the Silver family's view of the events.

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The ballad itself is an elaborate piece of ventriloquism. Frankie speaks Jereboam Beauchamp's words—and even Beauchamp is speaking only conventional words composed not by the condemned but by a hack poet whose perspective is that of religious and state authorities. Yet in the actual singing or hearing of the song, Frankie does get her day; for during the performance, both singer and listener in some measure stand in her shoes on the scaffold and face Eternity, filled with terror and remorse:

This dreadful dark and dismal day
Has swept my glories all away.
My sun goes down, my days are past,
And I must leave this world at last?

Oh! Lord, what will become of me?
I am condemned, you all now see,
To heaven or hell my soul must fly
All in a moment when I die . . .

This empathy has kept the song alive, and the song has kept the legends alive; and together the song and the legends have begotten all our modern interest. We come to the material shocked by social issues in the case—the class and gender inequities in society and in the law. The storytellers contemplate character and fate: the human capacity for measureless rage or the enormous and devastating consequences of a moment's mindless act. The ballad singers hold on to the song because it moves them, awakening their feelings for an actual human being facing the most terrifying of human fates—to know that you will unavoidably die at a known, appointed hour, in dread of eternal punishment.

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This essay is adapted from a paper presented at the 1997 American Folklore Society meeting and revised for publication in the Journal of American Folklore, which has graciously consented to its reprinting in these pages. A greatly extended form of the material will appear in fall 2000 in my book A Tree Accurst: Bobby McMillon and Stories of Frankie Silver (University of North Carolina Press).

Notes

¹ Quotations from Bobby McMillon come from interviews taped by Beverly Patterson and Wayne Martin in November 1992 and February 1993 and by the author in May 1997.

² William H. Battle, *Battle's Revisal of the Public Statutes of North Carolina Adopted by the General Assembly at the Session of 1872-'3* (Raleigh, 1873), 298, citing 1868-'9 statute, c. 167, sec. 9. The state Constitution of 1868 re-defined the object of punishments as "being not only to satisfy justice, but also to reform the offender, and thus prevent crime." (art. 11, sec. 2); cf. also James Iredell, *The Public Acts of the General Assembly of North Carolina* (Newbern, 1804), vol. 1, 9-10, and James Iredell and William H. Battle, eds., *The Revised Statues of the State of North Carolina Passed by the General Assembly at the Session of 1836-7* (Raleigh, 1837), 196, 204.

³ This jargon-ridden essay grows from Michel Foucault's *Discipline and Punish*.

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A Note on the Availability of the Artist and the Video

Bobby McMillon is available for song and story performances.
He can be contacted by mail at:

Post Office Box 5272

Lenoir, NC 28645

He can also be reached by telephone through his singing partner,
Marina Trivette. Call (828)-726-1907.

For further information about Bobby McMillon, see the "Touring
Artists Directory" posted by the North Carolina Arts Council at its
web site address:

[<http://www.ncarts.org/directory/stories.html>].

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The Ballad of Frankie Silver (1996, 47 min., color video) is
available for purchase by mail from:

Davenport Films

11324 Pearlstone Lane

Delaplane, VA 20144

Orders can be placed with credit card by phone at (800)-80-
GRIMM (800-804-7466), or by fax at (540)-592-3717, or by e-mail
at the following address :[davfilms@aol.com].

The Ballad of Frankie Silver is the fifth documentary in The
American Traditional Culture Series produced by Davenport Films in
collaboration with the Curriculum in Folklore at the University of
North Carolina at Chapel Hill. For information about the other films
in this series, see the web site of Davenport Films:

[<http://www.davenportfilms.com>].

Review Notes on *The Ballad of Frankie Silver* Polly Stewart

As a teaching tool, this video has potential uses that range from the “standard” to the subversive. On the surface we have a workmanlike and accessible treatment of local and family history issues as well as of Appalachian singing and narrating style. From this angle, the video bids fair to become a standard classroom resource for high school and college folklore, literature, history, and American studies classes.

Behind its straightforward and rather prosaic presentation, however—sensational content notwithstanding—lurks a complex and enigmatic and profoundly unsettling discourse about facts, truth, motivations, interests to be served, stories not told by the silenced, cultural blindness, and the astonishing power of contemporary historicizing to alter past events when information about them is lacking. In this regard the video provides an excellent resource for discovery and discussion about the constructedness of knowledge.

Thoughtful viewers, if they have read beforehand the articles in the present issue of *NCFJ*, which provide everything known about the background of both the story and the making of the video, will experience *The Ballad of Frankie Silver* as a complexly layered rhetorical combat; they may be unable subsequently to shake off peculiar notions of how fragile the very idea of “truth,” upon interrogation, actually is. They may reflect upon their own narratives—national, local, family, and personal—and wonder if the truth values of these are as deeply compromised as is the story of Frankie Silver.

What was the “real truth” behind the murder and dismemberment of Charlie Silver and of Frankie’s (or someone’s) pathetic and inept attempts to dispose of his remains, to disguise the killing? Inasmuch as this is not known, how did the primary bearers of the story

(Charlie Silver's kin) come by the diamond-hard details of the murder scene so carefully preserved in the traditional narrative, as exemplified by Bobby McMillon? Setting aside the facts of the murder and looking at social climate, what do we make of the class difference between Frankie's and Charlie's families and the unstated circumstances of the marriage between the two young people, of the "rule of thumb" that allowed a man to beat his wife so long as the stick he used was no thicker than his thumb, of the fact that Frankie, as a woman, was prohibited by law from testifying at her own trial, of the petition that was circulated by several dozen prominent local women in protest of Frankie's conviction and death sentence?

From a purely theoretical perspective, the story of Frankie Silver provides immensely rich material for students' examination of gender. In addition to all the gender issues adumbrated above (and there are others besides, such as Charlie's reputation as a womanizer), we are left with a terrible irony finally, that Frankie's kin had no financial or social resources to defend Frankie and, once she was incarcerated, no recourse but to try, and fail, to spirit her away in the disguise of a man.

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Chaucer's Wife of Bath, deep into her Prologue (a disquisition on the power relations of men and women), inquires rhetorically and with some heat, "Who painted the lion? Tell me, who?" (In the fable to which this query refers, a lion and a peasant are examining a sculpture in which a lion is depicted paying obeisance to a peasant; but, as the lion remarks to the peasant, if the lion had created the image, it would show the peasant being eaten by the lion.) What a story Frankie Silver might have told had she—or any woman of her station, in those days—had a chance to tell it.



Contributors

Tom Davenport is an award-winning independent filmmaker who has produced two sets of folklore films: "From the Brothers Grimm" and "The American Traditional Culture Series."

Bobby McMillon is a musician, singer, storyteller, and author who lives in Lenoir, North Carolina. The North Carolina Folklore Society and the North Carolina Arts Council have recognized him as an outstanding bearer of Appalachian traditions.

Beverly Patterson is a Folklife Specialist in the Folklife Program of the North Carolina Arts Council and the author of The Sound of the Dove: Singing in Appalachian Primitive Baptist Churches.

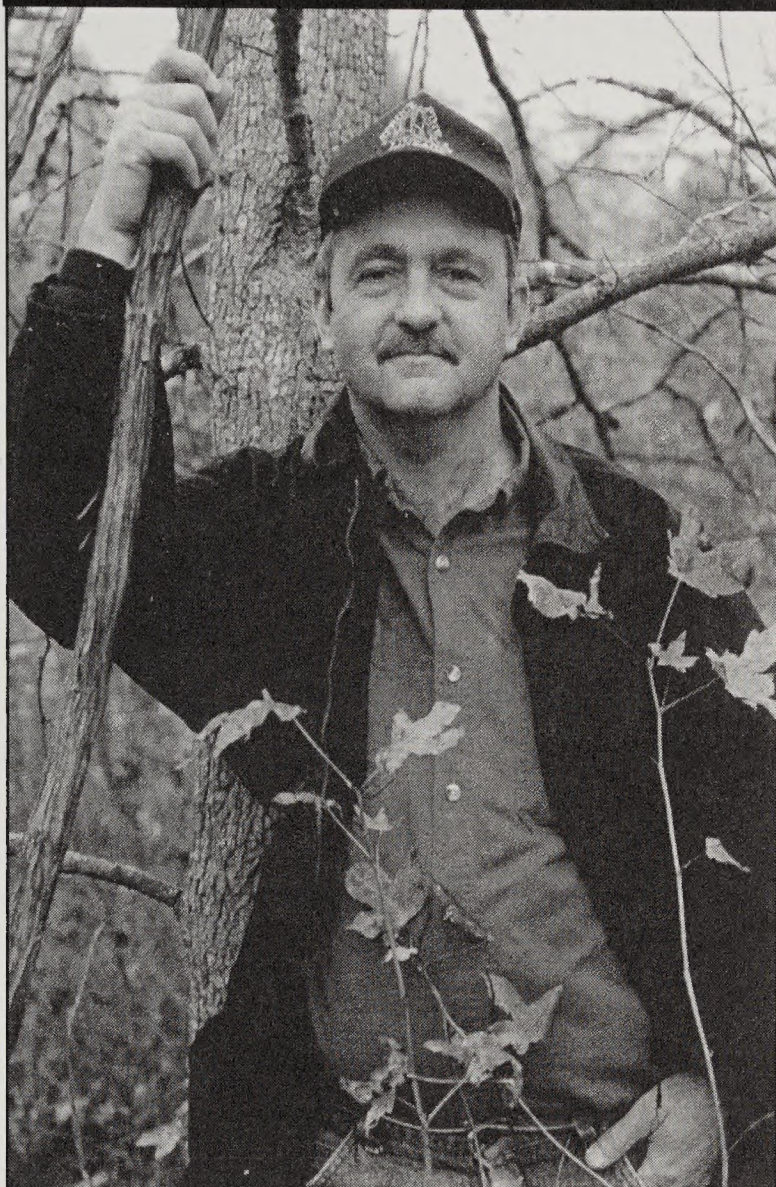
Daniel Patterson is Kenan Professor Emeritus and former Chair of the Curriculum in Folklore at the University of North Carolina at Chapel Hill. His book, A Tree Accurst: Bobby McMillon and Stories of Frankie Silver, is forthcoming from the University of North Carolina Press.

Polly Stewart is Professor of English at Salisbury State University.



Ann Parks Hawthorne photo

AVAILABLE THIS FALL!



Bobby McMillon, Photograph ©
Tom Rankin

Weaving Bobby McMillon's personal story—how and why he became a tale-teller and what the stories of Frankie Silver mean to him—into an investigation of the murder of Charlie Silver, Patterson explores the genesis and uses of folklore and the interplay between folklore, social and personal history, law, and narrative as people and communities try to understand human character and fate.

A TREE ACCURST

Bobby McMillon and Stories of
Frankie Silver

DANIEL W. PATTERSON

“A fascinating book—one that reveals much about oral history, the transmission of folklore, and the social history of Appalachia in the 19th century.”—Altina Waller, author of *Appalachia in the Making: The Mountain South in the Nineteenth Century*

“This stunning work is a carefully researched and ethically solid examination of the ways in which regional folklore functions in the cultural construction of history, law, and gender. It will be of interest—and importance—to folklorists, social historians, and anyone interested in the expressive, cultural aspects of law.”—Barre Toelken, Utah State University

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This dreadful dark and dismal day
Has swept my glories all away.
My sun goes down, my days are past,
And I must leave this world at last.

Oh Lord! What will become of me?

I am condemned, you all now see
To Heaven or hell my soul must fly
All in a moment when I die.

